

CODIFIED ORDINANCES OF BROOKLYN
PART FIVE - GENERAL OFFENSES CODE

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CODIFIED ORDINANCES OF BROOKLYN

PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501 General Provisions and Penalty

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CROSS REFERENCES

See sectional histories for similar State law
 Limitation of prosecution for income tax violations - see
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 Modification of sentence - see Ohio R.C. 2929.10(C), (D)
 Penalty considerations - see Ohio R.C. 2929.22
 Citation issuance for minor misdemeanors - see Ohio
 R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
- (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
- (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
- (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. AFinancial instruments associated with computers@ include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

- (2) As used in this section, Atrade secret@ has the same meaning as in Ohio R.C. 1333.61, and Atelecommunications service@ and Ainformation service@ have the same meanings as in Ohio R.C. 2913.01.
- (3) As used in this section, Acable television service@, Acomputer@, Acomputer software@, Acomputer system@, Acomputer network@, Adata@, and Atelecommunications device@ have the same meanings as in Ohio R.C. 2913.01.
- (k) "Law enforcement officer" means any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
 - (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor=s or manager=s capacity as chief conservator of the peace within the mayor=s or manager=s municipal corporation;
 - (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
 - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
 - (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
 - (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor.
 - (9) An Ohio veterans' home police officer appointed under Ohio R.C. 5907.02.
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y).
 - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28.
- (l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
- (m) "Contraband" means any property described in the following categories:
 - (1) Property that in and of itself is unlawful for a person to acquire or possess;
 - (2) Property that is not in and of itself unlawful for a person to acquire or possess, but that has been determined by a court of this State, in accordance with law, to be contraband because of its use in an unlawful activity or manner, of its nature, or of the circumstances of the person who acquires or possesses it including, but not limited to, goods and personal property described in Ohio R.C. 2913.34(D);

- (3) Property that is specifically stated to be contraband by a section of the Ohio Revised Code or by an ordinance, regulation or resolution;
- (4) Property that is forfeitable pursuant to a section of the Ohio Revised Code, or an ordinance, regulation or resolution, including, but not limited to, forfeitable firearms, dangerous ordnance, obscene materials, and goods and personal property described in Ohio R.C. 2913.34(D);
- (5) Any controlled substance as defined in Section 513.01, or any device, paraphernalia, money as defined in Ohio R.C. 1301.01 or other means of exchange that has been, is being or is intended to be used in an attempt or conspiracy to violate, or in a violation of, Ohio R.C. Chapter 2925 or 3719, or Chapter 513 of the General Offenses Code;
- (6) Any gambling device, paraphernalia, money as defined in Ohio R.C. 1301.01 or other means of exchange that has been, is being or is intended to be used in an attempt or conspiracy to violate, or in the violation of Ohio R.C. Chapter 2915 or Chapter 517 of the General Offenses Code;
- (7) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid or substance that has been, is being or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this State relating to alcohol or tobacco;
- (8) Any personal property that has been, is being or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense;
- (9) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of contraband, other than by a court or a law enforcement agency acting within the scope of its duties;
- (10) Any computer, computer system, computer network, computer software, or other telecommunication device that is used in a conspiracy to commit, an attempt to commit or in the commission of any offense, if the owner of the computer, computer system, computer network, computer software, or other telecommunication device is convicted of or pleads guilty to the offense in which it is used.
- (n) A School safety zone@ consists of a school, school building, school premises, school activity, and school bus.
- (o) A School@, A school building@ and A school premises@ have the same meaning as in Ohio R.C. 2925.01.
- (p) A School activity@ means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district, a governing body of an educational service center, or the governing body of a school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (q) A School bus@ has the same meaning as in Ohio R.C. 4511.01.
(ORC 2901.01)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is a fine not exceeding one hundred dollars (\$100.00). (ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

(a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.

(b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.
(ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.

(b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

(c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance. (ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

- (1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.
- (2) While in this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality and the other jurisdiction.
- (3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.
- (4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.
- (5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.
- (6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.

- (7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.

(b) In homicide, the element referred to in subsection (a)(1) hereof is either the act that causes death, or the physical contact that causes death, or the death itself. If any part of the body of a homicide victim is found in this Municipality, the death is presumed to have occurred within this Municipality.

(c) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.

(d) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.

(e) As used in this section, Acomputer@, Acomputer system@, Acomputer network@, Ainformation service@, Atelecommunication@, Atelecommunications device@, Atelecommunications service@, Adata@, and Awriting@ have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense involving misconduct in office by a public servant as defined in Section 525.01, at any time while the accused remains a public servant, or within two years thereafter.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

(f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process which commenced the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (ORC 2901.13)

(i) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person=s liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(b) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(c) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(d) As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor=s control of the thing possessed for a sufficient time to have ended possession.

- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.
- (4) AIntoxication@ includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is his specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.

(c) A person acts recklessly when, with heedless indifference to the consequences, he perversely disregards a known risk that his conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he perversely disregards a known risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, he fails to perceive or avoid a risk that his conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, he fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.
(ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor=s effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor=s criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, A drug abuse offense@ has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.
(ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of his office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of his office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.
- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of his office or employment.

(b) When strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf. (ORC 2901.24)

501.13 DISPOSITION OF PROPERTY.

(a) Property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or lawfully seized or otherwise forfeited, and that is in the custody of a law enforcement agency, shall be safely kept pending the time it is no longer needed as evidence, and shall be disposed of pursuant to this section. Every law enforcement agency that has lost, abandoned, stolen, seized or forfeited property in its custody, except for property to be disposed of under subsection (d)(4) hereof, shall maintain an accurate record of each item of the property, which record shall include the date on which each item of property came into the agency's custody, the manner in which it was disposed of, the date of its disposition and the name of the person who received the property if it was not destroyed. The record of any property that is no longer needed as evidence shall be open to public inspection during the agency's regular business hours.

(b) The law enforcement agency shall make a reasonable effort to locate the persons entitled to possession of property in its custody, to notify them of when and where it may be claimed and to return the property to them. In the absence of evidence identifying persons entitled to custody, it is sufficient notice to advertise in a newspaper of general circulation in the County, briefly describing the nature of the property in custody, and inviting persons to view and establish their right to it.

(c) A person loses any right he may have to the possession of property if either of the following apply:

- (1) The property was the subject, or was used in a conspiracy or attempt to commit, or in the commission, of an offense other than a traffic offense, and such person is a conspirator, accomplice or offender with respect to the offense;
- (2) When a court determines that the property should be forfeited because, in light of the nature of the property or the circumstances of such person, it is unlawful for him to acquire or possess the property.

(d) Unclaimed or forfeited property in the custody of a law enforcement agency, shall be disposed of on application to and order of any court of record that has territorial jurisdiction over the Municipality as follows:

- (1) Drugs shall be destroyed, or shall be placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable Federal law.
- (2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use, or as museum pieces or collectors' items, may be sold at public auction pursuant to subsection (d)(8) hereof. Other firearms and dangerous ordnance shall be destroyed.

- (3) Obscene material shall be destroyed.
 - (4) Beer, intoxicating liquor or alcohol seized from a person who is not the holder of a permit issued under Ohio R.C. Chapters 4301 and 4303, or is an offender, and forfeited to the State under Ohio R.C. 4301.45 or 4301.53 shall be sold by the Department of Liquor Control, if the Department determines that the beer, intoxicating liquor or alcohol is fit for sale. If any tax imposed under Ohio R.C. Title XLIII has not been paid in relation to the beer, intoxicating liquor or alcohol, the proceeds of the sale shall first be used to pay the tax. All other money collected under subsection (d)(4) hereof shall be paid into the State Treasury. Any such beer, intoxicating liquor or alcohol that the Department determines to be unfit for sale shall be destroyed.
 - (5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund if the sender is not known.
 - (6) Vehicle and vehicle parts forfeited under Ohio R.C. 4549.61 to 4549.63 maybe given to a law enforcement agency for use in the performance of its duties. Such parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives thereof may be sold or disposed of as provided by rules of the Director of Highway Safety. Parts from which a vehicle identification number or derivative thereof has been removed, defaced, covered, altered or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.
 - (7)
 - A. Computers, computer networks, computer systems and computer software suitable for police work may be given to a law enforcement agency for that purpose, other computers, computer networks, computer systems and computer software shall be disposed of pursuant to subsection (d)(8) hereof.
 - B. As used in this section "computers," "computer networks," "computer systems" and "computer software" have the same meaning as in Ohio R.C. 2913.01.
 - (8) Other unclaimed or forfeited property, with the approval of the court, may be used by the law enforcement agency that has possession of it. If the other unclaimed or forfeited property is not used by the law enforcement agency, it may be sold at public auction, or disposed of in another manner that the court considers proper in the circumstances.
- (e)
- (1) Except as provided in subsections (d)(4), (5), (e)(2) and (f) hereof, the proceeds from property disposed of pursuant to this section shall be placed in the General Fund of the Municipality.
 - (2) Upon receipt of a notice of the recognition of a citizens' reward program by the County, each law enforcement agency shall pay twenty-five percent (25%) of the proceeds from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively for the payment of rewards.

(f) This section does not apply to the collection, storage or disposal of abandoned junk motor vehicles. This section shall not be construed to rescind or restrict the authority of the law enforcement agency to keep and dispose of lost, abandoned, stolen, seized or forfeited property under an ordinance of the Municipality; provided that if the Municipality has received notice as provided in subsection (e)(2) hereof and disposes of property under such an ordinance, it shall pay twenty-five percent (25%) of the proceeds from any sale or auction to the citizens' reward program as provided under subsection (e)(2) hereof. (ORC 2933.41)

501.14 PAYMENT OF EXPENSES OF RAPE VICTIMS.

Upon the concurrence of the Chief of Police, the Director of Law and the Finance Director, any medical expenses incurred by a victim of rape which occurred within the Municipality shall be paid promptly upon their presentation. (Ord. 1976-8. Passed 3-8-76.)

501.15 DISOBEDIENCE OF COURT COMMAND; FAILURE TO APPEAR.

(a) No person shall:

- (1) Disobey or resist a lawful writ, process, order, rule, judgment or command of a Court or an officer;
- (2) As an officer of a Court, misbehave in the performance of his official duties or in his official transactions;
- (3) Fail to obey a subpoena duly served, or refuse to be sworn or to answer as a witness, when lawfully required;
- (4) Rescue or attempt to rescue a person or property in the custody of an officer which custody is by virtue of an order or process of a Court; or
- (5) When recognized to appear as a witness in a Court, fail to appear in compliance with the terms of his recognizance.

(b) No person who has been summoned as provided in Ohio R.C. 2935.10 (B) shall, if personal service of the summons was had upon him, fail to appear without just cause.
(Ord. 1982-11. Passed 3-8-82.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree.
(Ord. 1993-52. Passed 11-8-93.)

501.16 COSTS OF CONFINEMENT.

(a) Any person who is convicted of an offense under the Traffic Code or under the General Offenses Code, other than a minor misdemeanor, and who is sentenced to and imprisoned in the City of Brooklyn, shall reimburse the City of Brooklyn for its expenses incurred by reason of the prisoner's confinement.

The duty to reimburse the City shall include all expenses incurred by the City, including, but not limited to, food, clothing, medical expenses and health care. Chargeable costs shall include any period of incarceration before sentencing that is credited against the term of imprisonment.

(b) In any proceeding which is subject to this section, the City Prosecutor shall apply to the sentencing judge or referee for a determination, or the sentencing judge or referee may, on his or her own motion, proceed to make a determination of the extent of the individual's duty to reimburse the City for its expenses in confining him or her pursuant to Ohio R.C. 2929.15. However, the maximum amount permitted by Ohio R.C. 2929.15(B) shall not apply. The actual amount to be paid shall not exceed the actual costs of confinement. The City Prosecutor shall notify the Clerk of Court in all cases where the sentencing judge or referee determines that the individual has a duty to reimburse the City, and shall include the amount so ordered to be paid in such notice.

(c) The Chief of Police shall maintain records of expenses chargeable to each prisoner, in accordance with a reasonable computation of the per capita cost of maintaining such prisoner, in addition to specific expenses incurred on behalf of each prisoner. Upon each prisoner's release, the Chief of Police shall prepare a statement of such expenses, and shall cause such statement to be transmitted to the Clerk of Court.

Upon receipt of the aforementioned statement from the Police Department, the Clerk shall then proceed to attempt to collect payment from the individual for such authorized expenses of confinement. The Clerk may, in his or her discretion, accept partial payments or permit individuals to make periodic payments. Bills may be sent by regular mail and if no acceptable response is made within thirty days from their being sent, the Clerk shall refer the matter to the Law Department for further collection efforts.

(d) The Clerk shall also refer matters to the Law Department for additional collection efforts where an individual fails to satisfactorily complete a payment plan. The Law Director, in all matters referred to him or her, shall determine the most appropriate procedure for collecting such unpaid expenses. All moneys collected pursuant to this section shall be placed only in the General Fund of the City.

(Ord. 1992-28. Passed 4-13-92.)

501.99 PENALTIES FOR MISDEMEANORS.

(a) (1) Except as provided in Ohio R.C. 2929.23, whoever is convicted of or pleads guilty to a misdemeanor as classified in the Codified Ordinances shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

Whoever is convicted of or pleads guilty to committing, attempting to commit, or complicity in committing a violation of Section 541.02 or 541.03(a)(2) when the means used are fire or explosion, shall be required to reimburse agencies for their investigation or prosecution costs in accordance with Ohio R.C. 2929.28.

(2)	<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>	
			First degree	6
			months \$1000.00	
	Second degree 90 days		750.00	
	Third degree 60 days		500.00	
	Fourth degree 30 days		250.00	
	Minor No imprisonment		100.00	

- (3) The court may require a person who is convicted of or pleads guilty to a misdemeanor to make restitution for all or part of the property damage that is caused by his offense and for all or part of the value of the property that is the subject of any theft offense as defined in Ohio R.C. 2913.01(K) that the person committed. If the court determines that the victim of the offense was sixty-five years of age or older or permanently or totally disabled at the time of the commission of the offense, the court regardless of whether the offender knew the age of the victim, shall consider this fact in favor of imposing restitution, but this fact shall not control the decision of the court.
- (4) If a person is sentenced to a term of imprisonment pursuant to this section and the term of imprisonment is to be served in a county jail in a county that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the person may be considered by the county sheriff of that county for participation in the county jail industry program. The court shall retain jurisdiction to modify its specification made pursuant to this paragraph during the person's term of imprisonment upon a reassessment of the person's qualifications for participation in the program.
(ORC 2929.21)

(b) Regardless of the penalties provided in subsection (a) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of <u>Misdemeanor</u>	Maximum <u>Fine</u>
First degree	\$5000.00
Second degree	4000.00
Third degree	3000.00
Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (b).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (b), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (b) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (b).
(ORC 2929.31)

CHAPTER 505 Animals and Fowl

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| <p>505.01 Dogs and other animals running at large.</p> <p>505.02 Impounding and disposition; records.</p> <p>505.03 Annual registration of dogs; tags required.</p> <p>505.04 Abandoning animals.</p> <p>505.05 Killing or injuring animals.</p> <p>505.06 Poisoning animals.</p> <p>505.07 Cruelty to animals.</p> <p>505.08 Nuisance conditions prohibited.</p> <p>505.09 Barking or howling dogs.</p> <p>505.10 Animal bites; reports and quarantine.</p> <p>505.11 Hunting prohibited.</p> <p>505.12 Coloring rabbits or baby poultry; sale or display of poultry.</p> | <p>505.13 Report of escape of exotic or dangerous animal.</p> <p>505.14 Animal fights.</p> <p>505.15 Hindering capture of unlicensed dog.</p> <p>505.16 Dog owner liable for damage to public property.</p> <p>505.17 Horses on sidewalks prohibited.</p> <p>505.18 Dog excrement removal.</p> <p>505.19 Dangerous and vicious dogs.</p> <p>505.20 Teasing or striking dogs used by Police Department.</p> <p>505.21 Injuring or killing dogs used by Police Department.</p> <p>505.22 Rabies vaccination of dogs and cats required.</p> <p>505.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Owner or keeper liable for damages - see Ohio R.C. 951.10
 Dog registration - see Ohio R.C. 955.01

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of cattle, sheep, geese, ducks, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) No person being the owner of or having charge of any dog, whether wearing a registration tag or not, shall permit it to run at large upon any public place or upon the premises of another. No owner, keeper or harbinger of any female dog shall permit such dog to go beyond the premises of such owner or keeper at any time such dog is in heat, unless such dog is properly in leash. The owner or keeper of every dog shall at all times keep such dog either confined upon the premises of the owner or keeper, or under reasonable control of some person. (ORC 955.22)

(c) No person shall permit any dog or cat to be on a public street or highway or other public property within the City, except when held securely in leash by the owner or harbinger of such dog or cat. However, no person shall permit any dog or cat to be within the Brooklyn Memorial Park area.

(d) No person shall permit any dog or cat to run at large or trespass upon any private property within the City, except private property owned by the owner or harbinger of such dog or cat.

(e) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(f) Whoever violates this section is guilty of misdemeanor of the fourth degree.

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) The Police Department, through its animal warden, may impound every animal found in violation of any of the provisions of this chapter. If a dog is found not wearing a valid dog license tag, the Police Department, through its animal warden, shall turn it over forthwith to an officer charged by law with the custody and disposal of dogs. If a dog is wearing a valid dog license tag or the identity of the owner or custodian is otherwise established, the Police Department, through its animal warden, shall immediately give notice to the licensee, owner or custodian that the dog has been impounded. Such notice may be by telephone or by ordinary mail to the last known address of such licensee, owner or custodian. The dog shall not be released except upon the payment of fifteen dollars (\$15.00) to cover expenses involved in its taking or keeping. Any dog so impounded by the Police Department through its animal warden must be claimed within twenty-four hours after notice has been received by its owner or it shall be sold or otherwise disposed of as provided by law. If a cat is found to be in violation of any provision of this chapter, it shall not be released to its owner unless and until a payment of ten dollars (\$10.00) is made to cover the expenses for its taking and keeping. All notice provisions of this chapter applicable to dogs shall also apply to cats. (Ord. 1991-78. Passed 6-10-91.)

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dog shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity. (ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

505.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. (ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

505.07 CRUELTY TO ANIMALS.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.
(ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 959.99(D))

505.08 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.09 BARKING OR HOWLING DOGS.

(a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harbinger, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense of the owner or harbinger. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harbinger. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.11 HUNTING PROHIBITED.

(a) "Hunting," as used in this section, means the pursuing, shooting, killing, capturing or trapping of any quadruped or bird, whether such are game, nongame or wild, and all other acts such as placing, setting, drawing or using any device commonly used to take quadrupeds or birds, whether they result in taking or not, and every attempt or act of assistance to take any quadruped, bird or fish.

(b) The hunting of any quadruped or bird within the City is hereby prohibited. No person shall hunt, kill or attempt to kill any quadruped or bird by the use of firearms or by any other means. (Ord. 1964-61. Passed 9-14-64.)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree.

505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 925.62)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.13 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he discovers or reasonably should have discovered the escape, report it to:

- (1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and
- (2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 2927.21)

505.14 ANIMAL FIGHTS.

(a) No person shall knowingly engage in or be employed at cockfighting, bear-baiting or pitting an animal against another; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use, train or possess any animal for seizing, detaining, or maltreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.15 HINDERING CAPTURE OF UNLICENSED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.16 DOG OWNER LIABLE FOR DAMAGE TO PUBLIC PROPERTY.

The owner, keeper or harbinger of any dog which damages or destroys park or public property shall be held liable for the full value of the property damaged or destroyed in addition to any penalty imposed for a violation of this chapter.
(Ord. 1973-45. Passed 12-17-73.)

505.17 HORSES ON SIDEWALKS PROHIBITED.

(a) No person shall ride, drive or lead a horse upon any of the sidewalks of the City or in any way impede the free use of sidewalks by pedestrian traffic.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

505.18 DOG EXCREMENT REMOVAL.

(a) No person shall allow a dog under his or her control to be upon public property or upon the property of another (absent the consent of the owner or occupant of the property) without some device designed or intended for the removal or containment of such dog's excrement; nor shall any person fail to remove any excrement deposited by any dog under his or her control.

(b) This section shall not apply to guide dogs under the control of a blind person.

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor and for each subsequent offense a misdemeanor of the fourth degree.
(Ord. 1984-36. Passed 9-24-84.)

505.19 DANGEROUS AND VICIOUS DOGS.

- (a) As used in this section:
- (1) A. "Dangerous dog" means a dog that, without provocation, and subject to subsection (a)(1)B. hereof, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper or harbinger and not under the reasonable control of its owner, keeper, harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top.
- B. "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- (2) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.
- (3) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.
- (4) A. "Vicious dog" means a dog that, without provocation and subject to subsection (a)(4)B. hereof, meets any of the following:
1. Has killed or caused serious injury to any persons;
 2. Has caused injury, other than killing or serious injury to any person, or has killed another dog;
 3. Is a pit bull terrier, the ownership, keeping or harboring of such a dog shall be prima-facie evidence of the ownership, keeping or harboring of a vicious dog.
- B. "Vicious dog" does not include either of the following:
1. A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
 2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.
- C. "Pit bull terrier" as used herein includes, but is not limited to, any American Pit Bull Terrier, any Bull Terrier, any Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.
- (5) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.
- (ORC 955.11)

(b) Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do either of the following:

- (1) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained;
- (2) While that dog is off the premises of the owner, keeper or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:
 - A. Keep that dog in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;
 - B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;
 - C. Muzzle that dog.

(c) No owner, keeper or harbinger of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage or bodily injury to or death of a person caused by the vicious dog. (ORC 955.22)

(d) If a violation of subsection (b) hereof involves a dangerous dog, whoever violates that subsection is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (c) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society.

(e) If a violation of subsection (b) hereof involves a vicious dog, whoever violates that subsection is guilty of one of the following:

- (1) A misdemeanor of the first degree on a first offense. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society.
- (2) A misdemeanor of the first degree if the dog causes injury other than killing or serious injury, to any person.

(f) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. (ORC 955.99)

505.20 TEASING OR STRIKING DOGS USED BY POLICE DEPARTMENT.

(a) No person shall maliciously or willfully tease or strike dogs used by the Police Department.

(b) A person commits the offense of teasing or striking dogs used by the Police Department if he willfully and maliciously taunts, torments, teases, beats or strikes any dog used by the Police Department, in the performance of the functions or duties of such Department, or interferes with or meddles with any such dog used by such Department or any member thereof in the performance of the functions or duties of such Department or of such officer or member.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree.
(Ord. 1990-25. Passed 5-14-90.)

505.21 INJURING OR KILLING DOGS USED BY POLICE DEPARTMENT.

(a) No person shall maliciously or willfully without the consent of the owner injure or kill dogs used by the Police Department.

(b) A person commits the offense of injuring or killing a dog used by the Police Department if he willfully or maliciously tortures, mutilates, injures or kills any dog used by the Police Department in the performance of the functions or duties of such Department.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 1990-25. Passed 5-14-90.)

505.22 RABIES VACCINATION OF DOGS AND CATS REQUIRED.

(a) Any person owning, keeping or harboring any dog or cat over the age of three months, shall be required to have such animal currently immunized against rabies by a licensed veterinarian.

(b) All owners or keepers as described in subsection (a) shall maintain a record of such immunization as provided by a veterinarian. They shall provide proof of immunization to any person so inquiring.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
(Ord. 1997-88. Passed 10-13-97.)

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 509
Disorderly Conduct and Peace Disturbance

509.01	Riot.	509.09	Disturbing the peace; noises.
509.011	Inciting to violence.	509.10	Unlawful congregation on sidewalks, public grounds.
509.02	Failure to disperse.	509.11	Loitering.
509.03	Disorderly conduct; intoxication.	509.12	Operation of radios or other soundmaking devices or instruments in vehicles.
509.04	Disturbing a lawful meeting.	509.99	Penalty.
509.05	Misconduct at an emergency.		
509.06	Inducing panic.		
509.07	Making false alarms.		
509.08	Curfew.		

CROSS REFERENCES

See sectional histories for similar State law
 Use of force to suppress riot - see Ohio R.C. 2917.05
 Cordoning off riot areas, prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16
 Emergency suspension of permits and sales by Director of Liquor Control - see Ohio R.C. 4301.251
 Criminal trespass - see GEN. OFF. 541.05

509.01 RIOT.

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:

- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
- (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
- (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC 2917.03)

509.011 INCITING TO VIOLENCE.

(a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:

- (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
- (2) The conduct proximately results in the commission of any offense of violence.

(b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

509.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) Whoever violates this section is guilty of failure to disperse, a misdemeanor of the fourth degree. (ORC 2917.04)

509.03 DISORDERLY CONDUCT; INTOXICATION.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
- (3) Insulting, taunting or challenging another, under circumstances in which that conduct is likely to provoke a violent response;
- (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(b) No person, while voluntarily intoxicated shall do either of the following:

- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;
- (2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.

(e) Whoever violates this section is guilty of disorderly conduct, a misdemeanor of the fourth degree. If the offender persists in disorderly conduct after reasonable warning or request to desist or if the offense is committed in the vicinity of a school, disorderly conduct is a misdemeanor of the third degree.

(f) As used in this section:

- (1) AEmergency medical services person@ is the singular of Aemergency medical services personnel@ as defined in Ohio R.C. 2133.21.
- (2) AEmergency facility person@ is the singular of Aemergency facility personnel@ as defined in Ohio R.C. 2909.04.
- (3) AEmergency facility@ has the same meaning as in Ohio R.C. 2909.04.
- (4) ACommitted in the vicinity of a school@ has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

509.04 DISTURBING A LAWFUL MEETING.

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:

- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
- (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (ORC 2917.12)

509.05 MISCONDUCT AT AN EMERGENCY.

(a) No person shall knowingly:

- (1) Hamper the lawful operations of any law enforcement officer, fireman, rescuer, medical person or other authorized person, engaged in his duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
- (2) Fail to obey the lawful order of any law enforcement officer engaged in his duties at the scene of or in connection with a fire, accident, disaster, riot or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of his duties.

(c) Whoever violates this section is guilty of misconduct at an emergency, a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.
(ORC 2917.13)

(d) As used in this section:

- (1) AEmergency medical services person@ is the singular of Aemergency medical services personnel@ as defined in Ohio R.C. 2133.21.
- (2) AEmergency facility person@ is the singular of Aemergency facility personnel@ as defined in Ohio R.C. 2909.04.
- (3) AEmergency facility@ has the same meaning as in Ohio R.C. 2909.04.

509.06 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Subsection (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of five hundred dollars (\$500.00) or more, or if the public place involved in a violation of this section is a school, inducing panic is a felony and shall be prosecuted under appropriate State law.

(d) As used in this section:

- (1) AEconomic harm@ means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. AEconomic harm@ includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

- C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
- D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

509.07 MAKING FALSE ALARMS.

- (a) No person shall do any of the following:
 - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
 - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
 - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (b) This section does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of five hundred dollars (\$500.00) or more, making false alarms is a felony and shall be prosecuted under appropriate State law.
- (d) As used in this section, Aeconomic harm@ means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. AEconomic harm@ includes, but is not limited to, all of the following:
 - (1) All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - (2) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - (3) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - (4) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 (ORC 2917.32)

509.08 CURFEW.

- (a) No minor under the age of twelve years shall be upon the streets or sidewalks of the City during the period of darkness to dawn, nor shall any minor between the ages of twelve and eighteen years be upon the streets or sidewalks of the City between the hours of 11:00 p.m. and 6:00 a.m., unless accompanied by a parent, guardian or some responsible person over the age of twenty-one years or a member of his family eighteen years or older.
- (b) No parent or guardian of any minor under the age of twelve years shall allow the minor to be upon the streets or sidewalks or any private or public place during the period from darkness to dawn, nor shall any parent or guardian of any child between the ages of twelve and eighteen years allow the minor to be upon the streets or sidewalks or any public or private place between the hours of 11:00 p.m. and 6:00 a.m., unless accompanied by his parent, guardian or some responsible person over the age of twenty-one years or a member of his family eighteen years or older.
(Ord. 2000-24. Passed 4-24-00.)

(c) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) APrivate place@ means and includes places privately owned but open to the public generally, such as shopping centers, retail stores, transportation terminals, movie theaters, office buildings, restaurants and all distinctly private places such as homes or private residences and apartment houses.
- (2) APublic place@ means and includes public streets and alleyways, public restrooms, public sidewalks, public parks, public buildings and Municipal airports.

(d) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. Minors violating any of the provisions of this section shall be dealt with in accordance with Juvenile Court law and procedure.
(Ord. 1996-62. Passed 12-9-96.)

509.09 DISTURBING THE PEACE; NOISES.

(a) No person shall disturb the peace and good order of the City by fighting, quarreling, wrangling, riotous assemblage, threatening violence to the person or property of others, riot, tumult, lascivious, obscene, profane or scandalous language, gambling, intoxication, drunkenness, lewd or lascivious behavior, indecent exposure of his person, or by abusing his family, or any member thereof by inflicting personal violence or any other gross abuse.

(b) No person shall, between the hours of 11:00 p.m. and 7:00 a.m., create any noise or cause the creation of noise, to the annoyance of persons in the City.

(c) No person shall, after a request to desist, make, continue or cause to be made by the use of any horn, bell, radio, loud speaker or by the operation of any instrument, equipment or device, any unreasonably loud, disturbing and unnecessary noise or noises of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life and health of any individual, and no person shall wilfully conduct himself in a noisy, boisterous or other disorderly manner by either words or acts which disturb the good order and quiet of the community.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(Ord. 1983-44. Passed 11-28-83.)

509.10 UNLAWFUL CONGREGATION ON SIDEWALKS, PUBLIC GROUNDS.

(a) No person shall congregate with others on a sidewalk or street corner or within a park or public ground, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned by the serious annoyance to pedestrians or by threatening, insulting or abusive conduct to them, or refuse to move on when ordered by a police officer.

(Ord. 1964-61. Passed 9-14-64.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

509.11 LOITERING.

(a) No person shall loiter or prowl in any public or private place at a time, in a manner or under circumstances which warrant alarm for the safety of persons or security of property in the surrounding area.

(b) Without limitation, the following circumstances may be considered in determining whether such alarm is warranted:

- (1) The flight of a person upon the appearance of a police officer;
- (2) Attempted concealment by a person upon the appearance of a police officer; and
- (3) The systematic checking by a person of doors, windows or other means of access to buildings, houses or vehicles.

(c) Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

(d) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) "Loitering" includes the following activities: lingering, hanging around, delaying, sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.
- (2) "Private place" means and includes places privately owned but open to the public generally, such as shopping centers, retail stores, transportation terminals, movie theaters, office buildings, restaurants, and all distinctly private places such as homes or private residences and apartment houses.
- (3) "Public place" means and includes public streets and alleyways, public restrooms, public sidewalks, public parks, public buildings and Municipal airports.
- (4) "Surrounding area" means that area easily and immediately accessible to the person under observation.

(e) Whoever violates this section is guilty of loitering, a misdemeanor of the fourth degree.

509.12 OPERATION OF RADIOS OR OTHER SOUNDMAKING DEVICES OR INSTRUMENTS IN VEHICLES.

(a) It is unlawful for any person operating or occupying a motor vehicle within the City to operate or amplify the sound produced by a radio, tape player or other soundmaking device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle.

(b) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(c) The provision of this section do not apply to the noise made by a horn or other warning device required or permitted by State law.

(d) A Plainly audible@ means any sound produced by a radio, tape player or other mechanical or electronic soundmaking device or instrument, from within the interior or exterior of a motor vehicle, including sound produced by a portable soundmaking device, that can be clearly heard outside the vehicle by a person using his normal hearing faculties, at a distance of 100 feet or more from the motor vehicle.

(e) Any law enforcement personnel who hears a sound that is plainly audible as defined herein, shall be entitled to measure the sound according to the following standards:

- (1) The primary means of detection shall be by means of the officer=s ordinary auditory senses, so long as the officer=s hearing is not enhanced by any mechanical device, such as a microphone or hearing aid.
- (2) The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he can readily identify the offending motor vehicle and the distance involved.
- (3) The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

(f) The motor vehicle from which the sound is produced must be located (stopped, standing or moving) within the City. Parking lots and driveways are included.

(g) The penalty for violation of this section shall be a fourth degree misdemeanor. (Ord. 1996-55. Passed 10-14-96.)

509.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 513 Drug Abuse Control

513.01	Definitions.	513.08	Illegally dispensing drug samples.
513.02	Gift of marihuana.	513.09	Controlled substance or prescription labels.
513.03	Drug abuse; controlled substance possession or use.	513.10	Hypodermic possession, display and dispensing.
513.04	Possessing drug abuse instruments.	513.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
513.05	Permitting drug abuse.	513.12	Drug paraphernalia.
513.06	Illegal cultivation of marihuana.	513.13	Counterfeit controlled substances.
513.07	Possessing or using harmful intoxicants.	513.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C 2925.51
 Criteria for granting probation - see Ohio R.C 3719.70(B)
 Attempted drug abuse offenses - see GEN. OFF. 501.09(e)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

- (f) "Manufacturer" means a person who manufactures a controlled substance as Amanufacture@ is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
 - (1) AMarihuana@ means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. AMarihuana@ does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
 - (2) AMarihuana@ does not include hashish. (ORC 2925.01)
- (h) (Reserved)
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (l) "Poison@" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (m) "Licensed health professional authorized to prescribe drugs@", Aprescriber@ and Aprescription@ have the same meanings as in Ohio R.C. 4729.01.
- (n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

- (o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.
- (p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01.
(ORC 3719.01)
- (q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.
(ORC 3719.011)
- (r) "Dangerous drug" means any of the following:
 - (1) Any drug to which either of the following applies:
 - A. Under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
 - (2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
 - (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)
- (s) "Bulk amount" of a controlled substance means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

- C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;
- (2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
 - (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.
- (t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

- (u) "Cultivate" includes planting, watering, fertilizing or tilling.
- (v) "Drug abuse offense" means any of the following:
 - (1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
 - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;
 - (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.
- (w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
 - (1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
 - (2) Any aerosol propellant;
 - (3) Any fluorocarbon refrigerant;
 - (4) Any anesthetic gas.
- (y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

- (bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:
 - (1) "The National Formulary";
 - (2) "The United States Pharmacopeia", prepared by authority of the United States Pharmacopeial Convention, Inc.;
 - (3) Other standard references that are approved by the State Board of Pharmacy.
- (cc) "Juvenile" means a person under eighteen years of age.
- (dd) "School" means any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (ee) "School premises" means either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (gg) "Counterfeit controlled substance" means:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (hh) An offense is committed in the vicinity of a school if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

- (ii) An offense is committed in the vicinity of a juvenile if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (jj) AHashish means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (kk) APublic premises means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
(ORC 2925.01)

513.02 GIFT OF MARIHUANA.

- (a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.
- (b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
(ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

- (a) No person shall knowingly obtain, possess or use a controlled substance.
- (b) This section does not apply to the following:
 - (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741.
 - (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - (3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
 - (4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the third degree or, if the offender previously has been convicted of a drug abuse offense, a misdemeanor of the second degree. If the drug involved in the violation is an anabolic steroid included in Schedule III and if the offense is a misdemeanor of the third degree under this subsection, in lieu of sentencing the offender to a term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant to Ohio R.C. 2951.02(F).
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person=s criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person=s appearance as a witness.

(ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree. (ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02 or 2925.03, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person=s criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person=s appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law. (ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) No person shall alter, deface or remove any label affixed by a manufacturer, wholesaler, pharmacist or licensed health professional authorized to prescribe drugs who dispenses a controlled substance in a package or container, as long as any of the original contents remain, except when lawfully filling a prescription. (ORC 3719.08)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99(C))

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person=s profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person=s possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99(D))

**513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE
IN MOTOR VEHICLE.**

(a) As used in this section, A motor vehicle@, A street@ and A highway@ have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
(ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine or any salt, isomer, or sale of an isomer of methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;

- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
- (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product or material;

- (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c)
- (1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.
 - (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
 - (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.

(d) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Notwithstanding Ohio R.C. 2933.42 and 2933.43, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2933.41(D)(8).

- (f)
- (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
 - (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
 - (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
 - (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (ORC 2925.14)

- (g) (1) Notwithstanding the fines otherwise required to be imposed pursuant to Ohio R.C. 2929.21 or 2929.31 for violations of this section and notwithstanding Ohio R.C. 2929.22, the court shall impose a mandatory fine of one thousand dollars (\$1,000) if the violation of this section was a misdemeanor of the first degree and a mandatory fine of seven hundred fifty dollars (\$750.00) if the violation of this section was a misdemeanor of the fourth degree.
- (2) The court may impose a fine in addition to a mandatory fine imposed pursuant to subsection (g)(1) hereof if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to Ohio R.C. 2929.21 or 2929.31.
- (3) Notwithstanding any contrary provision of Ohio R.C. 3719.21, fifty percent (50%) of any mandatory fine imposed pursuant to subsection (g)(1) hereof shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, Ohio R.C. 2925.03(J), and fifty percent (50%) shall be disbursed as provided in Ohio R.C. 3719.21. Any additional fine imposed pursuant to subsection (g)(2) hereof shall be disbursed by the clerk of the court as otherwise provided by law.
- (4) If a person is charged with any violation of this section and posts bail pursuant to Ohio R.C. 2937.22 to 2937.46 or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in subsection (g)(3) hereof.
- (5) No court shall impose a mandatory fine pursuant to subsection (g)(1) hereof upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that subsection, if the court determines the offender is an indigent person and is unable to pay the fine.

(h) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver=s or commercial driver=s license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with Ohio R.C. 2925.38.
(Ord. 1993-57. Passed 11-22-93.)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

- (a) No person shall knowingly possess any counterfeit controlled substance.
- (b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 517 Gambling

517.01	Definitions.	517.08	Bingo operator prohibitions.
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517.03	Operating a gambling house.	517.10	Exhibiting gambling devices for gain.
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517.06	Methods of conducting a bingo game; prohibitions.		
517.07	Bingo records.		

CROSS REFERENCES

See sectional histories for similar State law

Lotteries prohibited; exception - see Ohio Const., Art. XV,
Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41

Search warrants - see Ohio R.C. 2933.21(E)

Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

As used in this chapter:

- (a) "Bookmaking" means the business of receiving or paying off bets.
- (b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.
- (c) "Scheme of chance" means a lottery, numbers game, pool or other scheme in which a participant gives a valuable consideration for a chance to win a prize.
- (d) "Game of chance" means poker, craps, roulette, a slot machine, a punch board or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely or wholly by chance.
- (e) "Scheme or game of chance conducted for profit" means any scheme or game of chance designed to produce income for the person who conducts or operates the scheme or game of chance, but does not include a charitable bingo game.
- (f) "Gambling device" means:
 - (1) A book, totalizer or other equipment for recording bets;
 - (2) A ticket, token or other device representing a chance, share or interest in a scheme of chance, except a charitable bingo game, or evidencing a bet;

- (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, punch board or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes.
- (g) "Gambling offense" means the following:
 - (1) A violation of Ohio R.C. 2915.02 to 2915.05 or 2915.07 to 2915.11;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (g)(1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (g)(1), (2) or (3) hereof.
- (h) "Charitable organization" means any tax exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, volunteer fire fighter=s, senior citizen's, youth athletic, amateur athletic or youth athletic park organization. An organization is tax exempt if the organization is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from Federal income taxation under subsection 501(a) and described in subsections 501(c)(3), (4), (8), (10) or (19) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter=s organization, shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any scheme of chance or game of chance as provided in Section 517.02(c).
- (i) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.
- (j) "Educational organization" means any organization within this State that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, and that operates or contributes to the support of a school, academy, college or university.
- (k) "Veteran's organization" means any individual post of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post or auxiliary unit has been incorporated as a nonprofit corporation for at least two years and has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association. As used in this section, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least ten years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.

- (l) "Volunteer fire fighter=s organization" means any organization of volunteer fire fighters, as defined in Ohio R.C 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company.
- (m) "Fraternal organization" means any society, order or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members and that has been in continuous existence in this State for a period of five years.
- (n) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.
- (o) "Service organization" means any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment.
- (p) "Nonprofit medical organization" means any organization, that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research or therapeutic services for the public.
- (q) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.
- (r) "Charitable bingo game" means any bingo game that is conducted by a charitable organization that has obtained a bingo license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (s) "Bingo" means:
 - (1) A game with all of the following characteristics:
 - A. The participants use bingo cards that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces with each space, except the central space, being designated by a combination of a letter and a number and the central space being designated as a free space;
 - B. The participants cover the space on the bingo cards that correspond to combinations of letters and numbers that are announced by a bingo game operator;

- C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards;
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (s)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card being used by a participant.
- (2) Any scheme or game other than a game as defined in subsection (s)(1) hereof with the following characteristics:
 - A. The participants use cards, sheets or other devices that are divided into spaces arranged in horizontal, vertical or diagonal rows of spaces, with each space, except free spaces, being designated by a single letter, number or symbol; by a combination of letters, numbers or symbols; by a combination of a letter and a number, a letter and a symbol, or a number and a symbol; or by any combination of letters, numbers and symbols, with some or none of the spaces being designated as a free, complimentary or similar space;
 - B. The participants cover the spaces on the cards, sheets or devices that correspond to letters, numbers, symbols or combinations of such that are announced by a bingo game operator or otherwise transmitted to the participants;
 - C. A bingo game operator announces, or otherwise transmits to the participants, letters, numbers, symbols or any combination of such as set forth in subsection (s)(2)A. hereof that appear on objects that a bingo game operator selects by chance that correspond to one of the possible letters, numbers, symbols or combinations of such that can appear on the bingo cards, sheets or devices;
 - D. The winner of the bingo game is any participant who properly announces that a predetermined and preannounced pattern of spaces has been covered on a card, sheet or device being used by the participant.
- (t) "Conduct" means to back, promote, organize, manage, carry on or prepare for the operation of a scheme or game of chance but does not include any act performed by a bingo game operator.

- (u) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of a bingo game including, but not limited to, collecting money from participants, handing out bingo cards or objects to cover spaces on the bingo cards, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on the bingo cards, calling out the combinations of letters and numbers, distributing prizes to the winner of the bingo game and preparing, selling and serving food or beverages.
- (v) "Participant" means any person who plays bingo by covering the spaces on a bingo card that correspond to combinations of letters and numbers that are announced by a bingo game operator.
- (w) "Bingo session" means a period, not to exceed five continuous hours, during which a person conducts one or more bingo games.
- (x) "Gross receipts" means all money or assets, including admission fees, that a person receives from a bingo session that the person conducts without the deduction of any amounts for prizes paid out during the session or for the expenses of conducting the bingo session. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting a bingo session, or by a bona fide auxiliary unit or society of a charitable organization, at a bingo session conducted by the charitable organization, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to the bingo session;
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage;
 - (3) The food and beverages are sold at customary and reasonable prices;
 - (4) No person preparing, selling or serving the food or beverages at the site of the bingo game receives directly or indirectly any form of compensation for the preparation, sale or service of the food or beverages.
- (y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which a bingo game is conducted.
- (z) "To use gross receipts for a charitable purpose" means that the proceeds of the bingo game are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code; that the proceeds of the bingo game are

used by, or given, donated or otherwise transferred to a veteran's organization, as defined in subsection (k) hereof, that is a post, chapter or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter or organization organized in the United States or any of its possessions, at least seventy-five percent (75%) of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans) or are cadets, or are spouses, widows or widowers of war veterans, or such individuals, provided that no part of the net earnings of such post or organization inures to the benefit of any private shareholder or individual, and further provided that the bingo game proceeds are used by the post or organization for the charitable purposes set forth in Ohio R.C. 5739.02(B)(12), are used for awarding scholarships to or for attendance at an institution mentioned in Ohio R.C. 5739.02(B)(12), are donated to a governmental agency, or are used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups or other bona fide nonprofit organizations, promotion of patriotism or disaster relief; that the proceeds of the bingo game are used by, or given, donated or otherwise transferred to a fraternal organization that has been in continuous existence in this State for fifteen years for use exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals and contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code; or that the proceeds of the bingo game are used by a volunteer fire fighter=s organization and are used by the organization for the purposes set forth in subsection (l) hereof.

- (aa) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.
- (bb) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.
- (cc) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
 - (1) It owns, operates and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;
 - B. The playing fields are not used for any profit-making activity at any time during the year,
 - (2) It uses the proceeds of the bingo games it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.
- (dd) AAmateur athletic organization@ means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the AAmateur Sports Act of 1978", 90 Stat. 3045, 36 U.S.C.A. 373.
(ORC 2915.01)

517.02 GAMBLING.

(a) No person shall do any of the following:

- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
- (2) Establish, promote or operate, or knowingly engage in conduct that facilitates any scheme or game of chance conducted for profit;
- (3) Knowingly procure, transmit, exchange or engage in conduct that facilitates the procurement, transmission or exchange of, information for use in establishing odds or determining winners in connection with bookmaking or with any scheme or game of chance conducted for profit;
- (4) Engage in betting or in playing any scheme or game of chance, except a charitable bingo game, as a substantial source of income or livelihood;
- (5) With purpose to violate subsection (a)(1),(2), (3) or (4) hereof, acquire, possess, control or operate any gambling device.

(b) For purposes of subsection (a)(1) hereof, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including without limitation placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) hereof, a person facilitates a scheme or game of chance conducted for profit if the person in any way knowingly aids in the conduct or operation of any such scheme or game, including without limitation playing any such scheme or game.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) This section does not apply to any of the following:

- (1) Schemes of chance conducted by a charitable organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, provided that all of the money or assets received from the scheme of chance after deduction only of prizes paid out during the conduct of the scheme of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and provided that the scheme of chance is not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.09;

- (2) Games of chance, if all of the following apply:
- A. The games of chance are not craps for money, roulette for money or slot machines;
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - C. The games of chance are conducted at festivals of the organization that are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance;
A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(2)C. hereof if the veteran's or fraternal organization has already leased the premises four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(2)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(a)(3) when it leases premises from another charitable organization to conduct bingo games.
 - D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.09.
No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any scheme or game of chance.
- (3) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.

(e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct schemes of chance or games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

(a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

- (1) Use or occupy such premises for gambling in violation of Section 517.02;
- (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort shall make a bet or play any game of chance.

(b) No person, being the owner or lessee, or having custody, control or supervision of a hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort shall recklessly permit such premises to be used or occupied in violation of subsection (a) hereof.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming, a minor misdemeanor. If the offender has previously been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) hereof constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance.

(b) Whoever violates this section is guilty of cheating, a misdemeanor of the first degree. If the potential gain from the cheating is five hundred dollars (\$500.00) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

- (a) A charitable organization that conducts a bingo game shall do all of the following:
- (1) Own all of the equipment used to conduct the bingo game or lease that equipment from a charitable organization that is licensed to conduct a bingo game for a rental rate that is not more than customary and reasonable for that equipment;
 - (2) Use all of the gross receipts from the bingo game for paying prizes, for the charitable purposes listed in its bingo license application, for purchasing or leasing bingo cards and other equipment used in conducting the bingo game, hiring security personnel for the bingo game, or advertising the bingo game provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring or advertising, and for renting premises in which to conduct the bingo game, except that if the building in which the game is conducted is owned by the charitable organization conducting the game, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) or forty-five percent (45%) of the gross receipts from the session as consideration for the use of the premises;
 - (3) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo games, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo equipment or any other type of service or equipment. A charitable organization shall not lease or sublease premises that it owns or leases to more than one other charitable organization per calendar week for the purpose of conducting bingo games on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo games on the premises. In no case shall more than two bingo sessions be conducted on any premises in any calendar week;
 - (4) Display its bingo license conspicuously at the location where the bingo game is conducted;
 - (5) Conduct the bingo game in accordance with the definition of bingo set forth in Section 517.01(s)(1).

(b) A charitable organization that conducts a bingo game shall not do any of the following:

- (1) Pay any compensation to a bingo game operator for operating a bingo game that is conducted by the charitable organization or for preparing, selling or serving food or beverages at the site of the bingo game, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells or serves food or beverages at a bingo session conducted by the charitable organization or permit any auxiliary unit or society of the charitable organization to prepare, sell or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell or serve the food or beverages;
- (2) Pay consulting fees to any person for any services performed in relation to the bingo game;
- (3) Pay concession fees to any person who provides refreshments to the participants in the bingo game;
- (4) Conduct more than two bingo sessions in any seven-day period. Except that a volunteer fire fighter=s organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the Ohio Attorney General when it will conduct the sessions;
- (5) Pay out more than three thousand five hundred dollars (\$3,500) in prizes during any bingo session that is conducted by the charitable organization;
- (6) Conduct a bingo session at any time during the ten-hour period between midnight and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Section 517.09, or at any location not specified on its bingo license, or on any day of the week or during any time period not specified on its bingo license. If circumstances beyond its control make it impossible for the charitable organization to conduct a bingo session at the location specified on its bingo license, or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license, the charitable organization may apply in writing to the Attorney General for an amended bingo license, pursuant to Ohio R.C. 2915.08(F). A charitable organization may apply only once in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license. If the amended license is granted, the organization may conduct bingo sessions at the location, on the day of the week, and at the time specified on its amended license.
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which bingo is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo equipment or any other type of service or equipment.

(c) A bingo game operator shall not receive or accept any commission, wage, salary, reward, tip, donation, gratuity or other form of compensation, directly or indirectly, regardless of source, for operating a bingo game or providing other work or labor at the site of the bingo game.

(d) Notwithstanding subsection (a)(3) hereof, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(e) Whoever violates subsection (a)(2) hereof shall be charged with a violation of Ohio R.C. 2915.09. Whoever violates subsection (a)(1), (3), (4) or (5), (b) or (c) hereof is guilty of a minor misdemeanor. If the offender has previously been convicted of a violation of subsection (a)(1), (3), (4) or (5), (b) or (c) hereof, a violation of such provision is a misdemeanor of the first degree.
(ORC 2915.09)

517.07 BINGO RECORDS.

(a) A charitable organization that conducts a bingo session or scheme or game of chance pursuant to Section 517.02(d) shall maintain the following records for at least three years from the date on which the bingo session or scheme or game of chance is conducted:

- (1) An itemized list of the gross receipts of each session or scheme or game of chance;
- (2) An itemized list of all expenses other than prizes that are incurred in conducting the bingo session, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during the bingo session or scheme or game of chance conducted by the charitable organization and the name and address of all persons who are winners of prizes of one hundred dollars (\$100.00) or more in value;

- (4) An itemized list of the charitable recipients of the proceeds of the bingo session or scheme or game of chance, including the name and address of each recipient to whom the money is distributed; and if the organization uses the proceeds of a bingo session or the money or assets received from a scheme or game of chance for any purpose set forth in Section 517.01(z) or 517.02(d), a list of each purpose and an itemized list of each expenditure for each purpose;
 - (5) The number of persons who participate in any bingo session or scheme or game of chance that is conducted by the charitable organization.
 - (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from the definition of "gross receipts" under Section 517.01(x).
 - (7) An itemized list of all expenses incurred at each bingo session conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid and a receipt for all of the expenses.
- (b) The Attorney General or any local law enforcement agency may:
- (1) Investigate any charitable organization or any officer, agent, trustee, member or employee of the organization;
 - (2) Examine the accounts and records of the organization;
 - (3) Conduct inspections, audits and observations of bingo games or schemes or games of chance while they are in session;
 - (4) Conduct inspections of the premises where bingo games or schemes or games of chance are operated;
 - (5) Take any other necessary and reasonable action to determine if a violation of any provision of Ohio R.C. 2915.01, 2915.02, or 2915.07 to 2915.12 or Section 517.01, 517.02 or 517.06 et seq. of this chapter has occurred and to determine whether Ohio R.C. 2915.11 or Section 517.08 of this chapter has been complied with.

If any local law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member or employee of the organization has violated any provision of Ohio R.C. Chapter 2915 or of this chapter, the local law enforcement agency may proceed by action in the proper court to enforce Ohio R.C. Chapter 2915 or this chapter, provided that the local law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.

(c) No person shall destroy, alter, conceal, withhold or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede or interfere with any inspection, audit or observation of a bingo game or scheme or game of chance or premises where a bingo game or scheme or game of chance is operated, or refuse to comply with any reasonable request of, or obstruct, impede or interfere with any other reasonable action undertaken by, the Attorney General or a local law enforcement agency pursuant to subsection (b) hereof.

(d) Whoever violates subsection (a) or (c) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.08 BINGO OPERATOR PROHIBITIONS.

(a) No person shall be a bingo game operator unless he is eighteen years of age or older.

(b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.

(d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.09 BINGO EXCEPTIONS.

Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a) or (b) hereof:

- (a)
 - (1) The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game;
 - (2) All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00);
 - (3) No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game;
 - (4) The bingo game is not conducted either during or within ten hours of:
 - A. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - B. A scheme or game of chance other than a bingo game conducted pursuant to this section.
 - (5) The number of players participating in the bingo game does not exceed fifty.
- (b)
 - (1) The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card, sheet, objects to cover the spaces or other devices used in playing bingo;
 - (2) The total amount of money paid by all of the participants for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00);

- (3) All of the money paid for bingo cards, sheets, objects to cover spaces or other devices used in playing bingo are used only to pay winners monetary and nonmonetary prizes and to provide refreshments;
 - (4) The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00);
 - (5) No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game;
 - (6) The bingo game is not conducted during or within ten hours of either of the following:
 - A. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - B. A scheme of chance or game of chance other than a bingo game conducted pursuant to this section.
 - (7) All of the participants reside at the premises where the bingo game is conducted;
 - (8) The bingo games are conducted on different days of the week and not more than twice in a calendar week.
- (c) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) or (b) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.10 EXHIBITING GAMBLING DEVICES FOR GAIN.

(a) No person shall exhibit or maintain, or cause or permit to be exhibited or maintained, in the City, any machine, device or instrument which may be operated by the use of any coin, currency, token, slug, disc, marble, ball or puzzle, whether such machine, device or instrument purports to vend or distribute merchandise, or to furnish recreation or amusement, if such machine, device or instrument, when so operated, returns or distributes more or less than it purports to return or distribute, or returns or distributes one or more coins, currency, tokens, slugs, discs, marbles, balls or other articles, or records or tabulates a score, number or mark, which may be used for obtaining merchandise or other articles.

(b) Coin or currency operated machines or devices may be operated or maintained in amusement parks which are operating pursuant to a license issued by the City, so long as such machines or devices are designed, arranged and used solely for the amusement or recreation of persons using them and so long as the persons using such machines or devices are offered no prizes, free merchandise, coins, slugs, free plays or anything else of value, and provided that such machines or devices exhibit or display nothing of an obscene, suggestive or immoral nature.
(Ord. 2000-33. Passed 5-22-00.)

**517.11 OPERATING AN INSTANT BINGO PARLOR/DISBURSEMENT
BY MECHANICAL DEVICE.**

(a) No person, being the owner or lessee, or having custody, control or supervision of premises shall:

- (1) Use or occupy such premises for retail sale, and/or transfer, whether done manually or through any mechanical device, of AInstant Bingo® tickets or similar items in which, in exchange for some consideration, one receives a ticket or other item that can immediately reveal that the holder thereof has won a prize in cash or otherwise, unless done in conjunction with a Bingo game conducted by a charitable organization that has obtained a Bingo license pursuant to Ohio R.C. 2915.08, which can only be sold during those hours stated on the Bingo license and cannot extend beyond.

(b) This section additionally shall not apply to the sale, transfer or distribution of any such items by the Ohio Lottery Commission or its authorized agents.

(c) Whoever violates this section is guilty of operating an Instant Bingo Parlor, a misdemeanor of the first degree, provided the offender has been convicted of a gambling offense. (Ord. 2000-34. Passed 5-22-00.)

517.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 521 Health, Safety and Sanitation

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| <p>521.01 Abandoned refrigerators and airtight containers.</p> <p>521.02 Venting of heaters and burners.</p> <p>521.03 Barricades and warning lights; abandoned excavations.</p> <p>521.04 Sidewalk obstructions; damage or injury.</p> <p>521.05 Notice to fill lots, remove putrid substances.</p> <p>521.06 Duty to keep sidewalks in repair and clean.</p> <p>521.07 Fences.</p> <p>521.08 Littering and deposit of garbage, rubbish, junk, etc.</p> <p>521.09 Noxious or offensive odors.</p> <p>521.10 Nonsmoking areas in places of public assembly.</p> <p>521.11 Permits for boxing or wrestling matches; safety rules.</p> | <p>521.12 Water emergencies.</p> <p>521.13 Spitting.</p> <p>521.14 Noxious weeds, common weeds and grass; notice to cut; noncompliance; remedy of City.</p> <p>521.15 Removal of debris from multiple occupant premises.</p> <p>521.16 Placing rubbish on tree lawns; hours.</p> <p>521.17 Rummaging through trash, rubbish prohibited.</p> <p>521.18 Hours of collection and transportation.</p> <p>521.19 Placing for collection prohibited.</p> <p>521.20 Landfill rates and charges.</p> <p>521.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Flagpole installation in sidewalk - see Ohio R.C. 723.012
 Excavation liability - see Ohio R.C. 723.49 et seq.
 Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.
 Nuisances - see Ohio R.C. Ch. 3767
 Tampering with safety devices - see GEN. OFF. 541.04

521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (ORC 3767.29)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.02 VENTING OF HEATERS AND BURNERS.

(a) A brazier, salamander, space heater, room heater, furnace, water heater or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gas:

- (1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;
- (2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

521.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

(f) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.07 FENCES.

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This subsection (b) does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than seventy-two inches from the ground.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) No person shall, regardless of intent, throw, drop, discard, place or deposit litter or cause litter to be thrown, dropped, discarded, placed or deposited on any public property, on private property not owned by him, or in or on waters of the State, the Municipality or waters not owned by him, unless the person has:

- (1) Been directed to do so by a public official as part of a litter collection drive.
- (2) Thrown, dropped, discarded, placed or deposited the litter in a litter receptacle in a manner that prevents its being carried away by the elements; or
- (3) Been issued a permit or license covering the litter pursuant to Ohio R.C. Chapter 3734 or 6111.

(b) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
(ORC 3767.32)

(c) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.

(d) Whoever violates subsection (a) hereof, is guilty of a misdemeanor of the first degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates subsection (a) hereof to remove litter from any public or private property, or in or on any waters.

(e) Special clean up days are exempted.

(f) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. (Ord. 1991-75. Passed 5-28-91.)

521.09 NOXIOUS OR OFFENSIVE ODORS.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.
(ORC 3767.13)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

521.10 NONSMOKING AREAS IN PLACES OF PUBLIC ASSEMBLY.

(a) Definitions.

- (1) "Smoking materials" means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.
- (2) "Sign" means legible, English lettering on a contrasting background to clearly indicate that smoking is not permitted and to provide related information. The international "NO SMOKING" symbol (consisting of a pictorial representation of a burning cigarette enclosed with a red circle with a red bar across it) may be used in, or substituted for, a sign indicating that smoking is prohibited. A sign shall be of sufficient size to be clearly legible to one of normal vision throughout the area it is intended to mark.

(b) Restrictions on Smoking in Public Places. The possession of lighted smoking material in any form is prohibited in any of the Municipally owned or operated buildings in the City.

(c) Signs. Signs indicating that smoking is not permitted shall be clearly, sufficiently, and conspicuously posted in every establishment where smoking is regulated by this section in such manner as to give adequate notice to members of the general public. Signs indicating that smoking is prohibited in elevators and stairwells shall be posted in elevators and stairwell entrances on each floor.

(d) Enforcement. Enforcement shall be implemented by the Safety Director who shall:

- (1) Establish a telephone number through which all complaints by citizens relating to violations of the section may be directed or referred;
- (2) Require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the manager or other person having control of such establishments that all requirements of the section have been complied with.

(e) Relation to Other Law. This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by law, nor to relieve any proprietor, employer, or other responsible party from any liability resulting from exposure to tobacco smoke.

(f) Violations and Penalties.

- (1) No person who manages or otherwise controls the use of any establishment subject to the restrictions of this section shall fail to comply with its provisions.
- (2) No person shall smoke in any area restricted by the provisions of this section.
- (3) Any person who violates any provision of this section is guilty of a minor misdemeanor.
- (4) Each day on which a violation of any provision occurs is a separate and distinct offense and shall be punishable as such.
(Ord. 1987-9. Passed 2-23-87.)

521.11 PERMITS FOR BOXING OR WRESTLING MATCHES; SAFETY RULES.

(a) No person shall sponsor or promote any prize fight or public sparring, boxing or wrestling match or exhibition, without having a permit issued and in effect pursuant to Ohio R.C. 3773.08(A). No person shall provide physical facilities for, or act as second or principal in any prize fight or public sparring, boxing or wrestling match or exhibition, knowing or having reasonable cause to believe that the sponsor or promoter does not have a permit issued and in effect pursuant to Ohio R.C. 3773.08(A). No person shall recklessly violate any regulation adopted pursuant to Ohio R.C. 3773.08(B).

(b) Nothing in this section shall be construed to require a permit for sparring, boxing or wrestling matches or exhibitions held as part of an organized amateur athletic program, or as part of the athletic program of a school or college, provided such match or exhibition is conducted fairly and with reasonable measures to protect the health and safety of the participants.

(c) Nothing in this section shall be construed to limit the authority of the Municipality to prohibit or regulate prize fights or public sparring, boxing or wrestling matches or exhibitions, except that the Municipality may not permit the same unless conducted under Municipal regulations meeting or exceeding the minimum standards required under Ohio R.C. 3773.08(B) for regulations of a board of county commissioners. If a prize fight or public sparring, boxing or wrestling match or exhibition is lawfully permitted by the Municipality pursuant to this subsection the sponsor or promoter thereof is not required to have a permit issued pursuant to Ohio R.C. 3773.08(A). (ORC 3773.08)

(d) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 1973-45. Passed 12-17-73.)

521.12 WATER EMERGENCIES.

(a) Upon notice from the City of Cleveland, Division of Water and Heat of the Department of Public Utilities that a shortage of water supply exists which threatens the public health and safety and that the necessity exists to curtail water use within all or any part of the City of Brooklyn, Ohio, the Mayor is hereby authorized to proclaim a water use emergency throughout all or any part of the City of Brooklyn.

(b) A proclamation of a water use emergency shall specify:

- (1) The geographic area within the City affected by the water use emergency;
- (2) The length of time the emergency shall be in effect which time shall not exceed seven days; and
- (3) The degree of water use curtailment.

(c) To implement the conservation of water use during a water use emergency, the Mayor may order the water use curtailment by prohibiting unnecessary use or consumption of water during all or specified hours of the day and/or may order that specified premises curtail necessary use or consumption of water on specified days only as the Mayor shall determine to be necessary.

(d) The proclamation of a water use emergency shall become effective at the time of issuance and signature by the Mayor. Notice thereof shall be given to a newspaper of general circulation within the Municipality and shall be reported to a local radio and television station for broadcast purposes.

- (e) (1) "Unnecessary use or consumption" means the use or consumption of water for purposes other than personal health, safety, sanitation and bodily consumption. It includes, but is not limited to, sprinkling or watering lawns, other land irrigation, the washing of automobiles, houses or structures and the use of water for recreational purposes such as the maintenance of swimming pools.

- (2) The use of water for private construction such as in the mixing and curing of concrete, the puddling of backfill in excavations, the moistening of masonry walls preparatory to pointing or sealing, and other similar uses is not an unnecessary use or consumption of water. The use of water to scrub and rinse areas such as hard-surfaced drives, garage floors, patios and similar uses where necessary for the purpose of sanitation and the protection of health is not an unnecessary use and consumption of water.

(f) No person or entity shall during a water use emergency use water in violation of the terms and conditions of the Mayor's water use emergency proclamation.

(g) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
(Ord. 1981-23. Passed 10-12-81.)

521.13 SPITTING.

(a) No person shall spit, excrete or expectorate any saliva or sputum upon any sidewalk, or the floor of any public conveyance, building, theater or assembly hall, except in receptacles provided for such purpose.
(Ord. 1964-61. Passed 9-14-64.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.14 NOXIOUS WEEDS, COMMON WEEDS AND GRASS; NOTICE TO CUT;

NONCOMPLIANCE; REMEDY OF CITY.

(a) The Director of Public Service is hereby authorized and directed to make surveys during the growing season to determine on what lands in the City noxious weeds, grass, common weeds or other forms of vegetation are being permitted to grow, mature and spread seeds and/or have reached an excessive and unsightly growth; and he shall cause written notice to be served upon the owner, lessee, agent or tenant having charge of such land, notifying him that noxious weeds and grass are growing on such land and that they must be cut and destroyed within five days after such notice is served. If the owner or other person having charge of the land is a nonresident of the City whose address is known, the notice shall be sent by certified mail. If the address is unknown it shall be sufficient to publish the notice once in a newspaper of general circulation in Cuyahoga County. The Director of Public Service or his Deputy or any police officer may make service and return of the notice provided for herein, which shall be duly noted by the Clerk of Council setting forth the cost of the notice or publication. This notice shall be served only one time during the year. After such service, it will be mandatory for the owner, lessee, agent or tenant having charge of such land to maintain the property or the City shall cause such weeds, grass or other vegetation to be cut all during the growing season.
(Ord. 1998-25. Passed 5-18-98.)

(b) Upon failure of the owner, lessee, agent, tenant or person having charge of the land to comply with the notice within the period of time stipulated, the Director, for and on behalf of Council, shall cause the weeds to be cut and destroyed by the direct employment of labor. Upon the completion of such labor, the Director shall report to Council the cost thereof, with respect to each parcel of land, together with the cost of the survey, including the amount paid for the labor, the fees for the officer who made the notice and return and the cost of publication of the notice, if any, together with the proper description of the premises. Upon receipt of the report and approval thereof, Council, shall make a return, in writing, to the County Auditor with a statement of such charges which shall be entered upon the tax duplicate of the County, shall be a lien upon such lands from the date of entry and shall be collected as other taxes and returned to the City with the general fund. This remedy shall be in addition to the penalty provided in subsection (c) hereof.

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. (Ord. 1982-38. Passed 9-13-82.)

521.15 REMOVAL OF DEBRIS FROM MULTIPLE OCCUPANT PREMISES.

(a) Definitions.

- (1) "Debris/waste" means any loose item within or on premises and includes, by way of illustration but not limitation, the following: bottles, cans, boxes, papers, cartons, bags, whether of paper or other substance, plastic containers, aerosol cans, handbills, wrappings, string, ropes and other similar items or objects, whether new or used.
- (2) "Premises" includes the land and building(s) thereon of any property.
- (3) "Common areas" means those areas, the use of which is permitted to all occupants or lawful users of the premises.
 - A. "Exterior area" includes all common front yards, side yards, unenclosed walkways, sidewalks, parking lots.
 - B. "Interior area" includes all common walkways, stairwells, arcade areas or malls. It shall not include interior areas used by owners or tenants and over which they have exclusive right of control.
- (4) "Responsible party" means that individual, corporation, partnership, owner or landlord, irrespective of the particular organization through which it conducts its operation, or any agent, representative or officer thereof to whom rent is paid or who exercises control in any degree whatsoever over the maintenance, care, protection, leasing and renting of the premises.

(b) Debris/Waste Prohibited. All debris or waste in all common exterior or interior areas of premises in apartments, commercial, retail or industrial areas is prohibited; and the removal of such debris shall be the duty and obligation of the responsible party, as defined in subsection (a)(4) hereof. The observance and presence of debris in forbidden areas shall be prima facie evidence that a violation of this section has occurred and testimony to such extent shall be admissible in any prosecution hereunder and shall be sufficient to sustain a burden of proof unless otherwise rebutted.

(c) Any person convicted of a violation of this section shall be deemed guilty of a minor misdemeanor. (Ord. 1976-38. Passed 10-25-76.)

521.16 PLACING RUBBISH ON TREE LAWNS; HOURS.

(a) No person, firm or individual shall in any way place or deposit rubbish, garbage or other debris for collection by the Service Department on any portion before or ahead of the front building line on their premises between 2:00 p.m. on Fridays and 6:00 a.m. the succeeding Monday or between 2:00 p.m. on the afternoon preceding a holiday and 6:00 a.m. the next succeeding weekday, not otherwise a holiday or weekend.

(b) No person, firm or individual shall allow the trash receptacles previously placed on any portion before or ahead of the front building line of the premises they own and/or occupy to remain before or ahead of the front building line of the premises more than forty-eight hours after the rubbish has been collected.

(c) Whoever violates either subsection (a) and/or subsection (b) hereof is guilty of a minor misdemeanor.
(Ord. 2000-1. Passed 1-24-00.)

521.17 RUMMAGING THROUGH TRASH, RUBBISH PROHIBITED.

(a) No person, firm or individual shall in any way take or remove any item whatsoever from rubbish placed by the Service Department of the City for collection, nor shall any person remove, take away, carry away, rummage through, knock down, move, displace, upset, rearrange, separate or in any other way interfere or disrupt the containers, trash cans, or other receptacle used for the removal of rubbish by the City employees after such items have been placed for collection on the tree lawn or other designated place.
(Ord. 1968-46. Passed 9-9-68.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

521.18 HOURS OF COLLECTION AND TRANSPORTATION.

(a) No person owning or driving a vehicle hauling solid waste shall cause the collection, transportation or transfer of such waste other than between the hours of 7:00 a.m. and 7:00 p.m. Application for exceptions to this provision may be made to the Safety Director, on a form provided by the Safety Director. Such exceptions shall be granted only where the applicant is able to demonstrate circumstances of great practical difficulty in the collection and transportation of solid waste in areas where there is heavy daytime vehicular and pedestrian traffic and a concentration of commercial activity, and where the evening hauling will not have a deleterious effect on the residents of neighboring properties.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 1991-64. Passed 5-13-91.)

521.19 PLACING FOR COLLECTION PROHIBITED.

(a) No person, firm or individual shall in any way place or deposit, demolition or construction materials, concrete, oil, automobile or truck tires, metal drums, or batteries for collection by the Service Department, on any portion before or ahead of the front building line on their premises.

(b) Any resident of the City may dispose of demolition or construction materials, oil, automobile or truck tires, or batteries by transporting these items to the City landfill between the hours of 8:00 a.m. and 4:00 p.m., Monday through Thursday, and between the hours of 9:00 a.m. and 1:00 p.m. on Saturdays, paying the posted fee, and depositing them in a dumpster or other container made available by the City, for future transportation to a landfill or other facility designed to accept these items.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree. (Ord. 1991-63. Passed 5-13-91.)

521.20 LANDFILL RATES AND CHARGES.

SCHEDULE OF RATES AND CHARGES

(a) Any resident of the City of Brooklyn may deposit at the sanitary landfill for disposal the following items, upon payment of the fees set forth hereinafter:

- (1) Demolition or construction materials: \$10.00/cubic yard.
- (2) Automobile tires: \$1.50 each.
- (3) Truck tires: \$4.00 each.
- (4) Batteries: \$1.00 each.
- (5) Oil: \$1.00 a gallon.

(Ord. 1991-65. Passed 5-13-91.)

521.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 525
Law Enforcement and Public Office

525.01	Definitions.	525.10	Having an unlawful interest in a public contract.
525.02	Falsification.	525.11	Soliciting or receiving improper compensation.
525.03	Impersonation of peace officer or private police officer.	525.12	Dereliction of duty.
525.04	Compounding a crime.	525.13	Interfering with civil rights.
525.05	Failure to report a crime, injury or knowledge of death.	525.14	Unauthorized display of law enforcement emblems on motor vehicles.
525.06	Failure to aid a law enforcement officer.	525.15	Assaulting police dog, horse or handicapped assistance dog.
525.07	Obstructing official business.	525.16	False allegation of peace officer misconduct.
525.08	Obstructing justice.	525.99	Penalty.
525.09	Resisting arrest.		

CROSS REFERENCES

See sectional histories for similar State law
 Law enforcement officer defined - see GEN. OFF. 501.01(k)
 Misconduct at an emergency - see GEN. OFF. 509.05
 Making false alarms - see GEN. OFF. 509.07
 Personating an officer to defraud - see GEN. OFF. 545.16

525.01 DEFINITIONS.

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers.
- (b) "Public servant" means any of the following:
 - (1) Any public official;
 - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;

- (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person=s name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election.
- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" and "medical assistance program" have the same meanings as in Ohio R.C. 2913.40.
(ORC 2921.01)

525.02 FALSIFICATION.

(a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability assistance; retirement benefits; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
- (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

- (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person=s detriment.
- (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
- (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
- (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
- (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.

(b) It is no defense to a charge under subsection (a)(4) hereof that the oath or affirmation was administered or taken in an irregular manner.

(c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

- (d)
 - (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (12) hereof is guilty of falsification, a misdemeanor of the first degree.
 - (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars (\$500.00) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.

(e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney=s fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER OR PRIVATE POLICE OFFICER.

(a) As used in this section:

- (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State, a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D), a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04, an Ohio veterans' home police officer appointed under Ohio R.C. 5907.02, a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28, or a State highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
- (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
- (3) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(b) No person shall impersonate a peace officer or a private police officer.

(c) No person, by impersonating a peace officer or a private police officer, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private police officer or an officer, agent or employee of the State or the Municipality.

(e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 2921.51)

525.04 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

- (1) The pending prosecution involved is for violation of Sections 545.05, 545.07, 545.09 or 545.10(b)(2), or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.

- (2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, the abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

(a) No person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) hereof, no person who is a physician, limited practitioner, nurse or other person giving aid to a sick or injured person, shall negligently fail to report to law enforcement authorities any gunshot or stab wound that the physician, limited practitioner, nurse or person treated or observed, or any serious physical harm to persons that the physician, limited practitioner, nurse or person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred or knowledge concerning the death is obtained.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) hereof was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

- (e) (1) As used in this subsection (e), "burn injury" means any of the following:
- A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
 - C. Any burn injury or wound that may result in death.
- (2) No physician, nurse or limited practitioner who, outside a hospital, sanitarium or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
 - (4) No person who is required to report any burn injury under subsection (e)(2) or (3) hereof shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the Office of the State Fire Marshal. The report shall be made on a form provided by the State Fire Marshal.
 - (5) Anyone participating in the making of reports under subsection (e) hereof or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to subsection (e) hereof.
- (f)
- (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, or professional counselor, who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
 - (2) Notwithstanding Ohio R.C. 4731.22, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted pursuant to subsection (f)(1) hereof, and the information may be admitted as evidence in accordance with the rules of evidence.
- (g) Subsection (a) or (d) hereof does not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, member of the clergy or rabbi or minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister or priest for a religious counseling purpose in the professional character of the member of the clergy, rabbi, minister, or priest, husband and wife, or a communications assistant and those who are a party to a telecommunications relay service call.

- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as such by a person seeking the aid or counsel or that member of the clergy.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency or organization certified pursuant to Ohio R.C. 3793.06.
- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05, or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates subsection (a) or (b) hereof is guilty of failure to report a crime. Violation of subsection (a) hereof is a misdemeanor of the fourth degree. Violation of subsection (b) hereof is a misdemeanor of the second degree.

(j) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
- (2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.
(ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

(a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official=s official capacity, shall do any act that hampers or impedes a public official in the performance of the public official=s lawful duties.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law. (ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:

- (1) Harbor or conceal the other person or child;
- (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
- (3) Warn the other person or child of impending discovery or apprehension;
- (4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;
- (5) Communicate false information to any person.

- (b) (1) Whoever violates this section is guilty of obstructing justice.
- (2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.

(c) As used in this section:

- (1) AAdult@ and Achild@ have the same meanings as in Ohio R.C. 2151.011.
 - (2) ADelinquent child@ has the same meaning as in Ohio R.C. 2152.02.
- (ORC 2921.32)

525.09 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

(a) No public official shall knowingly do any of the following:

- (1) During his term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission or board of which he was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which he is connected;
- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of his family or any of his business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving his exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of his family, or one of his business associates, has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
- (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.

(d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of his office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) As used in this section:

(1) "Public contract" means any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621. (ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

(a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.

(f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions. (ORC 2921.43)

525.12 DERELICTION OF DUTY.

(a) No law enforcement officer shall negligently do any of the following:

- (1) Fail to serve a lawful warrant without delay;
- (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer=s power to do so alone or with available assistance.

(b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

(c) No officer, having charge of a detention facility, shall negligently do any of the following:

- (1) Allow the detention facility to become littered or unsanitary;
- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;

- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
- (4) Allow a prisoner to escape;
- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

(f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.

(g) As used in this section, Apublic servant@ includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of his office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.
(ORC 2921.45)

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor.
(ORC 2913.441)

525.15 ASSAULTING POLICE DOG, HORSE OR HANDICAPPED ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
- (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

- (b) No person shall recklessly do any of the following:
 - (1) Taunt, torment, or strike a police dog or horse;
 - (2) Throw an object or substance at a police dog or horse;
 - (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
- (c) No person shall knowingly cause, or attempt to cause, physical harm to a handicapped assistance dog in either of the following circumstances:
 - (1) The handicapped assistance dog is assisting a blind, deaf, or mobility impaired person at the time the physical harm is caused or attempted.
 - (2) The handicapped assistance dog is not assisting a blind, deaf, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is a handicapped assistance dog.
- (d)
 - (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
 - (3) Whoever violates subsection (b) hereof is responsible for the payment of all of the following:
 - A. Any veterinary bills or bills for medication incurred by the Police Department as a result of the violation;
 - B. Any damaged equipment that result from the violation;
 - C. The cost of replacing the police dog or horse and of any further training of a new police dog or horse by a law enforcement officer that is required because of the death of or serious physical harm to the police dog or horse that is the subject of the violation.

- (4) Whoever violates subsection (c) hereof is guilty of assaulting a handicapped assistance dog. If the violation results in physical harm to the dog, assaulting a handicapped assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting a handicapped assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.

(e) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(f) As used in this section:

- (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
- (3) "Serious physical harm" means any of the following:
- A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (4) "Handicapped assistance dog" means a dog that serves as a guide or leader for a blind person or as a listener for a deaf person or that provides support or assistance for a mobility impaired person.
- (5) "Blind" and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.
(ORC 2921.321)

525.16 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

(a) As used in this section, Apeace officer@ has the same meaning as in Ohio R.C. 2935.01.

(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer=s duties if the person knows that the allegation is false.

(c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.
(ORC 2921.15)

525.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 529 Liquor Control

529.01	Definitions.	529.05	Permit required.
529.02	Sales to and use by underage persons; securing public accommodations.	529.06	Low-alcohol beverages: sale to and purchase by underage persons prohibited.
529.021	Purchase, consumption or possession by minor; misrepresentation.	529.07	Open container prohibited.
529.03	Sales to intoxicated persons.	529.08	Hours of sale or consumption.
529.04	Liquor consumption in motor vehicle.	529.09	Sale on public property prohibited.
		529.10	Minors possession or consumption on residential premises.
		529.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see
 Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.
- (b) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer as defined in subsection (c) hereof, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether the same are medicated, proprietary or patented. Such phrase includes wine as defined in Ohio R.C. 4301.01 even if it contains less than four percent (4%) of alcohol by volume, mixed beverages as defined in Ohio R.C. 4301.01 even if they contain less than four percent (4%) of alcohol by volume, alcohol and all solids and confections which contain any alcohol.
- (c) "Beer", "malt liquor" or "malt beverages" includes all brewed or fermented malt products containing one-half of one percent (0.5%) or more of alcohol by volume but not more than six percent (6%) of alcohol by weight.
- (d) "Person" includes firms and corporations. (ORC 4301.01)
- (e) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in subsection (e) hereof do not include a soft drink such as root beer, birch beer, or ginger beer.
(ORC 4301.01)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or the employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not himself an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not accompanied by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that he is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly possess or consume any beer or intoxicating liquor, in any public or private place, unless he is accompanied by a parent, spouse who is not an underage person or legal guardian, or unless the beer or intoxicating liquor is given by a physician in the regular line of his practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (d).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

- (1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.
- (2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.
- (3) "Minor" means a person under the age of eighteen years.
- (4) "Practitioner" and "prescription" have the same meanings as in Ohio R.C. 3719.01.
- (5) "Underage person" means a person under the age of twenty-one years. (ORC 4301.69)

(i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than five hundred dollars (\$500.00). (ORC 4301.99)

529.021 PURCHASE, CONSUMPTION OR POSSESSION BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor. (ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall order, pay for, share the cost of, or attempt to purchase any beer or intoxicating liquor, or consume any beer or intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink, or possess any beer or intoxicating liquor, in any public or private place. (ORC 4301.632)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift. (ORC 4301.633)

(d) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person=s name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control. (ORC 4301.634)

- (e)
 - (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.
 - (2) Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.
 - (3)
 - A. Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder=s employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.
 - B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder=s employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may suspend the offender's driver's or commercial driver's license or permit or nonresident operating privilege or deny the offender the opportunity to be issued a driver's or commercial driver's license for a period not exceeding sixty days.

- C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder=s employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also shall suspend the offender's driver's or commercial driver's license or permit or nonresident operating privilege or deny the offender the opportunity to be issued a driver's or commercial driver's license for a period of ninety days, and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court also may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform. (ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

(a) No person shall sell intoxicating liquor to any individual who habitually drinks intoxicating liquor to excess.

(b) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4301.99)

529.05 PERMIT REQUIRED.

(a) No person by himself or herself or by the person=s clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless such person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)

(b) Whoever violates this section is guilty of a minor misdemeanor.

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

(a) As used in this section, "underage person" means a person under eighteen years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section. (ORC 4301.631)

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.
(ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
- (1) AChauffeured limousine@ means a vehicle registered under Ohio R.C. 4503.24.
 - (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person=s possession an opened container of beer or intoxicating liquor in any of the following circumstances:
- (1) In a State liquor store;
 - (2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
 - (3) In any other public place;
 - (4) Except as provided in subsection (d) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
 - (5) Except as provided in subsection (d) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) A person may have in the person=s possession an opened container of any of the following:
- (1) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-7, D8, E, F, or F-2 permit;
 - (2) Beer, wine or mixed beverages served for consumption on the premises by the holder of an F-3 permit;
 - (3) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201.
- A person may have in the person=s possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. A used in this section, Amusic festival@ means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
- (1) The person or guest is a passenger in the limousine;
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
(ORC 4301.62)
- (e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

(a) No beer or other malt beverages shall be sold by, delivered by, or be permitted to be consumed on weekdays, upon the premises of a C-1, C-2, D-1, D-2 or D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m. The above restriction on hours of operation shall also apply to retail sales by an A-1 permit holder.

No wine, prepared highballs, cocktails or other mixed drinks, as defined in the Liquor Control Act, shall be sold, delivered or be permitted to be consumed on weekdays, upon the premises of an A-2, C-2, D-2 or D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No beer or intoxicating liquor shall be sold, delivered or be permitted to be consumed on weekdays on the premises of a D-3A, D-5, D-5A, or A-1-A permit holder between the hours of 2:30 a.m. and 5:30 a.m., and no intoxicating liquor shall be sold, delivered or be permitted to be consumed on weekdays on the premises of a D-3 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No beer or intoxicating liquor shall be sold, delivered, or be permitted to be consumed on weekdays on the premises of a D-4 permit holder between the hours of 1:00 a.m. and 5:30 a.m.

No intoxicating liquor may be sold by, delivered, or be permitted to be consumed on the premises of any permit holder during the hours between 1:00 a.m. on Sunday and Sunday midnight, except on the premises of a D-3A, D-5, D-5A or an A-1-A permit. As to holders of these excepted classes, no intoxicating liquor shall be sold or permitted to be consumed after 2:30 a.m. on Sunday.

No beer whether by the package or by the glass, shall be sold or delivered to be consumed on the premises of a permit holder on Sunday between the hours of 1:00 a.m. and 5:30 a.m. except on the premises of a holder of a D-3A permit who is also the holder of a D-1 permit or the holder of a D-5, D-5A or A-1-A permit. As to these excepted classes neither shall sell, deliver, or permit to be consumed on the premises, beer between the hours of 2:30 a.m. and 5:30 a.m.

The holder of a D-6 permit may sell or allow the consumption of intoxicating liquors, as authorized by his other permits, between the hours of 1:00 p.m. Sunday and Sunday at midnight for on the premises consumption only. (OAC 4301:1-1-49)

(b) Whoever violates this section is guilty of a minor misdemeanor.

529.09 SALE ON PUBLIC PROPERTY PROHIBITED.

(a) No person shall sell or give away any beer, wine, liquor or other spirituous beverages on public property. (Ord. 1955-50. Passed 6-27-55.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

529.10 MINORS POSSESSION OR CONSUMPTION ON RESIDENTIAL PREMISES.

(a) No person being the owner or occupant of any residential premises located within the City shall knowingly allow any person under the age of twenty-one years to remain on such premises while in the possession of intoxicating liquor or while consuming intoxicating liquor, or allow any person under the age of twenty-one years to remain on such premises while in the possession of beer or while consuming beer, in violation of this chapter.

(b) No person being the owner or occupant of any residential premises located within the City shall negligently allow any person under the age of twenty-one years to remain on such premises while in the possession of intoxicating liquor or while consuming intoxicating liquor, or allow any person under the age of twenty-one years to remain on such premise while in the possession of beer or while consuming beer, in violation of this chapter.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree on the first offense and a misdemeanor of the first degree on the second or any subsequent offense. Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree on the first offense and a misdemeanor of the third degree on the second or any subsequent offense. (Ord. 1992-15. Passed 3-2-92.)

529.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 531 Nuisances; Junk Vehicles

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| <p>531.01 Public nuisance defined.</p> <p>531.02 Nuisances generally; summary abatement.</p> <p>531.03 Abatement in other cases, notice, etc.</p> <p>531.04 Abatement by Building Inspector; etc.</p> <p>531.05 Additional nuisances; undesirable accumulations.</p> | <p>531.06 Determination of nuisance by officers required.</p> <p>531.07 Interpretation.</p> <p>531.08 Storage of junk vehicles.</p> <p>531.09 Refusal to obey order.</p> |
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CROSS REFERENCES

Nuisances - see Ohio R.C. Ch. 3767
 Noxious odors; filthy accumulations; polluting and diverting watercourses - see GEN. OFF. 521.04
 Sidewalk maintenance, obstructions, injury - see GEN. OFF. 521.06
 Littering and deposit of garbage, rubbish, junk, etc. - see GEN. OFF. 521.08
 Weeds - see GEN. OFF. 521.14

531.01 PUBLIC NUISANCE DEFINED.

As used in this chapter, a public nuisance shall be deemed to be any fence, wall, shed, house, building, structure, or any part of any of the aforesaid, or any tree, pole, smokestack, excavation, basement, cellar, sidewalk, subspace or dock, which in its entirety or in any part thereof, by reason of the condition in which the same is permitted to be or remain, shall or may endanger the health, life, limb or property of, or cause any hurt, harm, inconvenience, discomfort, damage or injury to, any person in the City in any one or more of the following particulars:

- (a) By reason of being a nuisance to the general health of the community;
 - (b) By reason of being a fire hazard;
 - (c) By reason of being unsafe for occupancy or use on, in, upon, about or around the aforesaid premises; or
 - (d) By reason of being a nuisance because of long continued vacancy or lack of reasonable or adequate maintenance of the structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.
- (Ord. 1968-71. Passed 11-25-68.)

531.02 NUISANCES GENERALLY; SUMMARY ABATEMENT.

(a) Whenever complaint is made to the Building Inspector of the existence of a public nuisance in the City, he shall promptly cause to be inspected the premises on which it is alleged such public nuisance exists. Should the Building Inspector find that a public nuisance may exist and that the public health, safety or welfare may be in immediate danger, he shall promptly notify the Director of Public Safety and the Fire Chief. The Director, if he has not already done so, and the Chief, if he has not already done so, shall cause to be inspected the premises on which it is alleged such public nuisance exists. Written reports of the inspections and of the findings of the Director and the Chief, with respect to the existence of a public nuisance, and any immediate danger to the public health, safety and welfare, shall be filed with the Building Inspector. Should any one or more of the aforesaid officers find that a public nuisance exists and that the nature thereof is such as to require its summary abatement, it shall be the duty of the Building Inspector to cause photographs of such nuisance to be made and to file and keep in his office the written reports of the findings of the aforesaid officials. The Building Inspector shall then determine the person who, from the records in the County Auditor's office, appears to be the titled owner of the aforesaid property and immediately cause a written notice to be served on such person, either personally or by leaving a copy at the usual place of residence or business of such person, or at the address of such owner shown in such County Auditor's records, or by mailing a copy to such owner at such place or address by United States certified mail, return receipt requested. If service of the written notice is unable to be perfected by any of the hereinbefore described methods, then the Building Inspector shall cause a copy of the notice to be left with the person, if any, in possession of the premises on which it is alleged such public nuisance exists, or, if there is no person in possession thereof, he shall cause a copy of the notice to be posted on the premises. The aforesaid notice shall state, in brief, the findings with respect to the existence of a public nuisance by any one or more of the aforesaid officers and shall further state that unless the owner thereof causes the abatement of the public nuisance within twenty-four hours after service of the notice, the same shall be abated by the City at the expense of the owner, in addition to the penalty provided in Section 531.09(b).

(b) Any act, inspection or finding required to be carried out by any public official named in this section and Section 531.03 may be carried out by any of their subordinates, assigned or directed by such officials to carry out such functions.
(Ord. 1968-71. Passed 11-25-68.)

531.03 ABATEMENT IN OTHER CASES, NOTICE, ETC.

(a) Should any one or more of the officers named in Section 531.02, after the inspection of the premises on which it is reported that a public nuisance may exist, be of the opinion that a public nuisance does exist, but that the nature thereof is not such as to require the summary abatement of such nuisance, photographs and reports of their findings, the same as provided in Section 531.02, shall be made and filed with the Building Inspector. It shall be the duty of the Building Inspector in such cases to serve written notice on the person who, from the records in the County Auditor's office, appears to be the owner of the aforesaid property, by serving him personally or by leaving a copy at the usual place of residence or business of the owner or at the address of such owner shown in such Auditor's records, or by mailing a copy to the owner at such place or address by United States certified mail, return receipt requested. If service of the written notice is unable to be perfected by any of the hereinbefore described methods, then the Building Inspector shall cause such notice to be published in a newspaper of general circulation in the City, once each week for two consecutive weeks, and shall further cause a copy of the aforesaid notice to be left with the person, if any, in possession of the premises on which it alleged that such public nuisance exists, or, if there is no person in possession thereof, he shall cause a copy of the notice to be posted on the premises.

(b) The aforesaid notice shall state, in brief, the findings of any one or more of the aforesaid officers of the City, with respect to the existence of a public nuisance, and shall further state that unless the owner thereof causes the abatement of the public nuisance within thirty days after the service of the notice, the same shall be abated by the City at the expense of the owner, in addition to the penalty provided in Section 531.09(b). The owner may at any time after receipt of such notice make a request in writing or in person, to the Building Inspector, to be furnished with a written list of the items which are alleged to constitute the public nuisance and which are alleged to be in need of repair and/or replacement.

(c) The owner may make immediate application in writing or in person to the Building Inspector for a building permit to undertake the repair or replacement of items alleged to constitute the public nuisance. The Building Inspector, upon being furnished by the owner with the complete plans and specifications covering the repairs or replacements, in conformity with the standards of the City, shall, upon approval of such plans and specifications, cause a building permit to be issued to such owner. The Building Inspector may grant more than thirty days to the owner in which to effect the repairs or replacements.

(d) The owner may, within fourteen days after receipt of the notice, make a demand in writing to the Building Inspector for a hearing on the question of whether in fact a public nuisance exists and/or whether more than thirty days should be granted to the owner to abate the nuisance. The hearing shall be held within ten days following receipt of the written demand and at least two days notice of the hearing shall be given to the owner. The hearing shall be conducted by a hearing board composed of the Law Director, the Director of Public Safety and the Director of Public Service, or in the event any of such officers are unable to attend, by someone from their respective departments delegated by them to act in their behalf. The hearing board may amend or modify the notice and order, or extend the time for compliance by the owner with parts of the abatement order until such date or dates as a majority of such board may determine. A copy of the decision of the hearing officers shall be promptly served upon the owner in the manner provided for by Section 531.02. The decision of the hearing board shall be final and conclusive, unless the owner files, within five days after the aforesaid decision is rendered, an action in or appeal to a court of competent jurisdiction; otherwise the same shall become final and conclusive at the termination of such action or appeal proceeding as determined by such court. (Ord. 1968-71. Passed 11-25-68.)

531.04 ABATEMENT BY BUILDING INSPECTOR, ETC.

Should the nuisance thereafter not be abated at the expiration of the time stated in the notice, or such additional time as the Building Inspector or the hearing officers provided for in Section 531.03 may grant, the Building Inspector shall have the right to enter upon the premises and to abate the nuisance found thereon. In abating such nuisance, he may go to whatever extent may be necessary to complete the abatement of the same and should it be practicable to sell or salvage any material derived in the aforesaid abatement, he may sell the same at private or public sale at the best price obtainable and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be deposited in the General Fund of the City and any difference between the amount so received and the cost of the abatement shall be levied as an assessment against the aforesaid property, by Council, certified to the County Auditor and collected as any other assessment by the City. Should the proceeds of the sale of such salvaged material exceed the cost of such abatement, such excess shall be paid to the owner of the premises from which such nuisance was abated when his proper claim therefor is established. In abating such nuisance the Building Inspector, for whatever assistance may be necessary, may call upon other departments of the City or may, by private contract, obtain the abatement thereof, if such private contract may be let without expense whatever to the City. (Ord. 1968-71. Passed 11-25-68.)

531.05 ADDITIONAL NUISANCES; UNDESIRABLE ACCUMULATIONS.

(a) It is hereby determined and declared to be a nuisance and against the public peace, health and general welfare of the City to permit any outside storage or accumulation of:

- (1) Building materials, including concrete block, bricks, lumber, boards, sand, cement, plumbing fixtures, steel rods, piping, shingles, asbestos sheeting or other similar objects or materials;
- (2) Newspapers, cardboard debris or junk;
- (3) Dismantled or inoperable bicycles, tricycles, motorbikes, motorcycles, go-carts, soap box racers, tires, rims, wheels (regardless of size), vehicular parts, scooters, wagons, sleds or other similar objects; or
- (4) Glass, in the form of panes, sections or windshields, broken or unbroken, doors, windows, screening or other similar objects.

Whenever complaint is made to the Building Inspector of the existence of a nuisance, as set forth in this subsection, he shall promptly cause to be inspected the premises on which it is alleged that such nuisance exists and should he find that a public nuisance exists and that the public health, safety and welfare are offended, he shall promptly notify the Director of Public Safety who shall cause such premises to be inspected and photographs of such existing offense to be made. The Building Inspector shall then determine the person who, from the records of the County Auditor's office, appears to be the titled owner of the aforesaid property and immediately cause written notice to be served on such person, either personally or by leaving a copy at the usual place of residence or business of such owner, or at the address of such owner shown in the records of the County Auditor, or by mailing a copy to such owner at such place or address by United States certified mail, return receipt requested. If service of the written notice is unable to be perfected by any of the hereinbefore described methods, then the Building Inspector shall cause a copy of the aforesaid notice to be left with the person, if any, in possession or charge of the premises on which it is alleged such nuisance exists. The aforesaid notice shall state in brief the findings of the inspection and shall require that the owner thereof cause the abatement of the public nuisance within seventy-two hours after service of the notice. No person shall violate such order. (Ord. 1969-42. Passed 9-8-69.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

531.06 DETERMINATION OF NUISANCE BY OFFICERS REQUIRED.

No proceeding under Sections 531.01 through 531.05 shall be maintained unless one or more of the following named officers find that a public nuisance in fact exists: the Director of Public Safety, the Fire Chief and the Building Inspector. There shall be no summary abatement of such a nuisance unless and until one or more of the aforesaid officers find that the summary abatement of such nuisance is necessary. (Ord. 1968-71. Passed 11-25-68.)

531.07 INTERPRETATION.

Sections 531.01 through 531.06 shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the City, but shall be deemed as an enlargement of any authority existing by virtue of the statutes of the State or any other ordinance heretofore enacted by Council. (Ord. 1968-71. Passed 11-25-68; Ord. 1969-42. Passed 9-8-69.)

531.08 STORAGE OF JUNK VEHICLES.

(a) As used in this section "junk motor vehicle" means any motor vehicle which is three years old or older; extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor or transmission; apparently inoperable; and having a fair market value of four hundred dollars (\$400.00) or less, that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12, or regulated under the authority of the Municipality; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle, as defined in Ohio R.C. 4501.01(F).

(b) No person shall be prevented from storing or keeping, or restricted in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property, except that a person having such permission may be required to conceal, by means of buildings, fences, vegetation, terrain or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

(c) The Chief of Police may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure or shall be removed from the property.

(d) No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of thirty days that a junk motor vehicle continues to be so left constitutes a separate offense. (ORC 4513.65)

(e) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense; on a second offense such person is guilty of a misdemeanor of the third degree; on each subsequent offense such person is guilty of a misdemeanor of the second degree.

531.09 REFUSAL TO OBEY ORDER.

(a) No person, being able to do so, shall refuse or neglect to obey a proper order issued by the Building Inspector pursuant to any provision of this chapter. (Ord. 1968-71. Passed 11-25-68.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 533 Obscenity and Sex Offenses

533.01	Definitions.	533.091	Loitering to engage in solicitation.
533.02	Presumption of knowledge; actual notice and defense.	533.10	Prostitution.
533.03	Unlawful sexual conduct with a minor.	533.11	Disseminating matter harmful to juveniles.
533.04	Sexual imposition.	533.12	Deception to obtain matter harmful to juveniles.
533.05	Importuning.	533.13	Displaying matter harmful to juveniles.
533.06	Voyeurism.	533.99	Penalty.
533.07	Public indecency.		
533.08	Procuring.		
533.09	Soliciting.		

CROSS REFERENCES

See sectional histories for similar State law
 Complicity - see GEN. OFF. 501.10
 Offensive conduct - see GEN. OFF. 509.03
 Telephone harassment - see GEN. OFF. 537.10
 Criminal trespass - see GEN. OFF. 541.05

533.01 DEFINITIONS.

As used in this chapter:

- (a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) "Sexual activity" means sexual conduct or sexual contact, or both.
- (d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (e) Any material or performance is "harmful to juveniles," if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:
 - (1) It tends to appeal to the prurient interest of juveniles;
 - (2) It contains a display, description or representation of sexual activity, masturbation, sexual excitement or nudity;

- (3) It contains a display, description or representation of bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) It contains a display, description or representation of human bodily functions of elimination;
 - (5) It makes repeated use of foul language;
 - (6) It contains a display, description or representation in lurid detail of the violent physical torture, dismemberment, destruction or death of a human being;
 - (7) It contains a display, description or representation of criminal activity which tends to glorify or glamorize such activity, and which with respect to juveniles has a dominant tendency to corrupt.
- (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
- (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (i) "Juvenile" means an unmarried person under the age of eighteen.

- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record or tape, or other tangible thing capable of arousing interest through sight, sound or touch.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
(ORC 2907.01)

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

(a) An owner, or manager, or his agent or employee, of a bookstore, newsstand, theater or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if he has actual notice of the nature of such material or performance, whether or not he has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.

(c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of his employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in his place of employment other than wages. (ORC 2907.35)

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law.
(ORC 2907.04)

533.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
- (4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. (ORC 2907.06)

533.05 IMPORTUNING.

(a) No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard.

(b) Whoever violates this section is guilty of importuning a misdemeanor of the first degree. (ORC 2907.07)

533.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person=s self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person, for the purpose of sexually arousing or gratifying the person=s self, shall commit trespass or otherwise surreptitiously invade the privacy of another to photograph the other person in a state of nudity.

(c) No person, for the purpose of sexually arousing or gratifying the person=s self, shall commit trespass or otherwise surreptitiously invade the privacy of another to photograph the other person in a state of nudity if the other person is a minor.

(d) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

- (e)
 - (1) Whoever violates this section is guilty of voyeurism.
 - (2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
 - (3) A violation of subsection (b) hereof is a misdemeanor of the second degree.
 - (4) A violation of subsection (c) or (d) hereof is a misdemeanor of the first degree. (ORC 2907.08)

533.07 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which his or her conduct is likely to be viewed by and affront others, not members of his or her household:

- (1) Expose his or her private parts, or engage in masturbation;
 - (2) Engage in sexual conduct;
 - (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) Whoever violates this section is guilty of public indecency. Except as otherwise provided in this subsection (b), public indecency is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 2907.09 or substantially similar municipal ordinance, public indecency is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 2907.09 or substantially similar municipal ordinance, public indecency is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.09 or substantially similar municipal ordinance, public indecency is a misdemeanor of the first degree. (ORC 2907.09)

533.08 PROCURING.

(a) No person, knowingly and for gain, shall do either of the following:

- (1) Entice or solicit another to patronize a prostitute or brothel;
 - (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. (ORC 2907.23)

533.09 SOLICITING.

(a) No person shall solicit another to engage with such other person in sexual activity for hire.

(b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree. (ORC 2907.24)

533.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- (5) Interfere with the free passage of another.

(b) As used in this section:

- (1) A Vehicle@ has the same meaning as in Ohio R.C. 4501.01.
- (2) A Public place@ means any of the following:
 - A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility;
 - B. A doorway or entrance way to a building that fronts on a place described in subsection (b)(2)A. hereof;
 - C. A place not described in subsection (b)(2)A. or B. hereof that is open to the public.

(c) Whoever violates subsection (a) hereof is guilty of loitering to engage in solicitation, a misdemeanor of the third degree. (ORC 2907.241)

533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character or content, shall recklessly do any of the following:

- (1) Sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile any material or performance that is obscene or harmful to juveniles;
- (2) Offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile any material or performance that is obscene or harmful to juveniles;
- (3) Allow any juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:

- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
- (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile=s parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.

- (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.
- (c)
 - (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
 - (2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.
- (d) Whoever violates this section is guilty of disseminating matter harmful to juveniles, a misdemeanor of the first degree. If the material or performance involved is obscene, disseminating material harmful to juveniles is a felony and shall be prosecuted under appropriate State law. (ORC 2907.31)

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

- (a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles shall do either of the following:
 - (1) Falsely represent that he is the parent, guardian or spouse of such juvenile;
 - (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.
- (b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:
 - (1) Falsely represent that he is eighteen years of age or over or married;
 - (2) Exhibit any identification or document purporting to show that he is eighteen years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151. (ORC 2907.33)

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

- (a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense.
(ORC 2907.311)

533.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 537 Offenses Against Persons

537.01	Negligent homicide.	537.16	Illegal distribution of cigarettes or other tobacco products.
537.02	Vehicular homicide and manslaughter.	537.161	Possession and use by minors of tobacco products prohibited.
537.03	Assault.	537.17	Criminal child enticement.
537.04	Negligent assault.	537.18	Contributing to unruliness or delinquency of a child.
537.05	Aggravated menacing.	537.19	Breach of confidence by employee.
537.051	Menacing by stalking.	537.20	Fortunetelling.
537.06	Menacing.	537.21	Abuse of a corpse.
537.07	Endangering children.	537.22	Compulsory school attendance; parental duty imposed.
537.08	Unlawful restraint.	537.23	Minors suspended or expelled from school to remain under supervision; parental duty imposed.
537.09	Coercion.	537.99	Penalty.
537.10	Telecommunication harassment.		
537.11	Threatening or harassing telephone calls.		
537.12	Misuse of 9-1-1 system.		
537.13	Adulterating of or furnishing adulterated food or confection.		
537.14	Domestic violence.		
537.15	Temporary protection order.		

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF.

501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another=s pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another=s pregnancy in any of the following ways:

(1) Negligently;

- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b)
 - (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or revocation imposed under Ohio R.C. Chapter 4507 or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense.
 - (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4507 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1) hereof if either of the following applies:
 - (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.
 - (2) At the time of the offense, the offender was driving under suspension under Ohio R.C. Chapter 4507.
- (d) As used in this section:
 - (1) A Mandatory prison term@ has the same meaning as in Ohio R.C. 2929.01.
 - (2) A Traffic-related homicide, manslaughter or assault offense@ means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (e) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)
- (f) The court imposing a sentence upon an offender for any violation of a municipal ordinance substantially equivalent to a violation of Ohio R.C. 2903.06 also shall impose a suspension of the offender=s driver=s license, commercial driver=s license, temporary instruction permit, probationary license, or nonresident operating privilege that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 under similar circumstances. (ORC 4507.1613)

537.03 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another=s unborn.

(b) No person shall recklessly cause serious physical harm to another or to another=s unborn.

(c) Whoever violates this section is guilty of assault, a misdemeanor of the first degree. If the assault was committed under the circumstances provided in subsection (c)(1), (2), (3) or (4) hereof, assault is a felony and shall be prosecuted under appropriate State law.

(1) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker=s care.

(2) If the offense is committed in any of the following circumstances:

- A. The offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department or is on the premises of the particular institution for business purposes or as a visitor, and the offense is committed by a person incarcerated in the State correctional institution, a person institutionalized in the Department of Youth Services institution pursuant to a commitment to the Department of Youth Services, by a probationer or parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
- B. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person=s arrest for any crime or delinquent act, subsequent to the person=s being charged with or convicted of any crime, or subsequent to the person=s being alleged to be or adjudicated a delinquent child.
- C. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee=s official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a probationer or parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

- D. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee=s official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person=s arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a probationer or parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - E. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim=s employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.
- (3) If the victim of the offense is a peace officer, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.
 - (4) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties.
- (d) As used in this section:
- (1) APeace officer@ has the same meaning as in Ohio R.C. 2935.01.
 - (2) AFirefighter@ has the same meaning as in Ohio R.C. 3937.41.
 - (3) AEmergency medical service@ has the same meaning as in Ohio R.C. 4765.01.
 - (4) ALocal correctional facility@ means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) AEmployee of a local correctional facility@ means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.

- (6) ASchool teacher or administrator@ means either of the following:
 - A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
- (7) ACommunity control sanction@ has the same meaning as in Ohio R.C. 2929.01.
- (8) AEscorted visit@ means an escorted visit granted under Ohio R.C. 2967.27.
- (9) APost-release control@ and Atransitional control@ have the same meanings as in Ohio R.C. 2967.01.
(ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another=s unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

537.05 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person=s unborn, or a member of the other person=s immediate family.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law. (ORC 2903.21)

537.051 MENACING BY STALKING.

(a) No person by engaging in a pattern of conduct shall knowingly cause another to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

- (b) Whoever violates this section is guilty of menacing by stalking.
 - (1) Except as otherwise provided in subsection (b)(2) or (3) hereof, menacing by stalking is a misdemeanor of the first degree.
 - (2) Menacing by stalking is a felony if any of the following applies and shall be prosecuted under appropriate State law:
 - A. The offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2903.211 or 2911.211.

- B. In committing the offense, the offender made a threat of physical harm to or against the victim.
 - C. In committing the offense, the offender trespassed on the land or premises where the victim lives, is employed, or attends school.
 - D. The victim of the offense is a minor.
 - E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
 - F. While committing the offense, the offender had a deadly weapon on or about the offender=s person or under the offender=s control.
 - G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - H. In committing the offense, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises.
 - I. Prior to committing the offense, the offender had been determined to represent substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) As used in this section:

- (1) APattern of conduct@ means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official=s, firefighter=s, rescuer=s, emergency medical services person=s, or emergency facility person=s official capacity may constitute a Apattern of conduct@.
- (2) AMental distress@ means any mental illness or condition that involves some temporary substantial incapacity or mental illness or condition that would normally require psychiatric treatment.

- (3) AEmergency medical services person@ is the singular of Aemergency medical services personnel@ as defined in Ohio R.C. 2133.21.
- (4) AEmergency facility person@ is the singular of Aemergency facility personnel@ as defined in Ohio R.C. 2909.04.
- (5) APublic official@ has the same meaning as in Ohio R.C. 2921.01.
(ORC 2903.211)

537.06 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person=s unborn, or a member of the other person=s immediate family.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer=s or employee=s performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.
(ORC 2903.22)

537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

- (c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine.
- (2) As used in subsection (c) hereof, "vehicle" has the same meaning as in Ohio R.C. 4511.01.

- (d) Whoever violates this section is guilty of endangering children.
- (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:
 - A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
 - B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
 - (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e)
- (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
 - (2)
 - A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
 1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.

2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
(ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of his liberty.
- (b) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree. (ORC 2905.03)

537.09 COERCION.

- (a) No person, with purpose to coerce another into taking or refraining from action concerning which he has a legal freedom of choice, shall do any of the following:
 - (1) Threaten to commit any offense;
 - (2) Utter or threaten any calumny against any person;
 - (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, or to damage his personal or business repute, or to impair his credit;
 - (4) Institute or threaten criminal proceedings against any person;
 - (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:

- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
- (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which he is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
- (3) Imposing probation on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his offense.

(c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that his purpose was limited to:

- (1) Compelling another to refrain from misconduct or to desist from further misconduct;
- (2) Preventing or redressing a wrong or injustice;
- (3) Preventing another from taking action for which the actor reasonably believed such other person to be disqualified;
- (4) Compelling another to take action which the actor reasonably believed such other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section "threat" includes a direct threat and a threat by innuendo. (ORC 2905.12)

537.10 TELECOMMUNICATION HARASSMENT.

(a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person=s control, to another, if the caller does any of the following:

- (1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
- (3) During the telecommunication, violates Ohio R.C. 2903.21;
- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient=s family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.

(b) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person=s control, with purpose to abuse, threaten, or harass another person.

- (c)
- (1) Whoever violates this section is guilty of telecommunication harassment.
 - (2) A violation of subsections (a)(1), (2), (3) or (5) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
 - (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of five hundred dollars (\$500.00) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.

(d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunication service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider=s, officer=s, employee=s, or agent=s provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or Ohio R.C. 4931.31. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider=s, officer=s, employee=s, or agent=s provision of information, facilities or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or Ohio R.C. 4931.31.

(e) As used in this section:

- (1) **AEconomic harm@** means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. **AEconomic harm@** includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- (2) **ACaller@** means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person=s control.
- (3) **ATelecommunication@** and **ATElecommunications device@** have the same meanings as in Ohio R.C. 2913.01.
- (4) **ASexual activity@** has the same meaning as in Ohio R.C. 2907.01.

(f) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the **AFair Debt Collection Practices Act@**, 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the **ATelephone Consumer Protection Act@**, 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(a) No person shall, while communicating with any other person over the telephone, threaten to do bodily harm or use or address to such other person any words or language of a lewd, lascivious or indecent character, nature or connotation for the sole purpose of annoying such other person; nor shall any person telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting such other person or his family.

Any use, communication or act prohibited by this section may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received. (ORC 4931.31)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4931.99)

537.12 MISUSE OF 9-1-1 SYSTEM.

(a) A 9-1-1 system means a system through which individuals can request emergency service using the telephone number 9-1-1. (ORC 4931.40)

(b) No person shall knowingly use the telephone number of the 9-1-1 system to report an emergency if he knows that no emergency exists. (ORC 4931.49)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 4931.99)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) As used in this section:

- (1) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the offender:
 1. A spouse, a person living as a spouse or a former spouse of the offender;
 2. A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
 3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.
 - B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
- (2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

(e) Whoever violates this section is guilty of domestic violence. Except as otherwise provided in this subsection, a violation of subsection (c) of this section is a misdemeanor of the fourth degree and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of domestic violence, of a violation of a municipal ordinance that is substantially similar to domestic violence, of a violation of Ohio R.C. 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, 2903.211, 2903.22, 2911.211 or 2919.22 involving a person who was a family or household member at the time of the violation, or of a violation of a municipal ordinance that is substantially similar to one of those sections involving a person who was a family or household member at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law and a violation of subsection (c) hereof is a misdemeanor of the third degree.
(ORC 2919.25)

(f) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

537.15 TEMPORARY PROTECTION ORDER.

- (a) No person shall recklessly violate the terms of any of the following:
- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b) Whoever violates this section is guilty of violating a protection order.
- (1) If the offense involves a violation of subsection (a)(1) or (3) of this section, one of the following applies:
 - A. Except as otherwise provided in subsection (b)(1)B. of this section, violating a protection order is a misdemeanor of the first degree.
 - B. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 2903.211 or 2911.211 that involved the same person who is the subject of the protection order or consent agreement or previously has been convicted of or pleaded guilty to one or more violations of Ohio R.C. 2919.27, violating a protection order is a felony and shall be prosecuted under appropriate State law.
 - (2) If the offense involves a violation of subsection (a)(2) of this section, one of the following applies:
 - A. Except as otherwise provided in subsection (b)(2)B. of this section, violating a protection order is a misdemeanor of the first degree.
 - B. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 2919.27 or of former Ohio R.C. 2919.27 involving a protection order issued pursuant to Ohio R.C. 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 that involved the same person who is the subject of the protection order, or two or more violations of Ohio R.C. 2903.214 as it existed prior to July 1, 1996, violating a protection order is a felony and shall be prosecuted under appropriate State law.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) As used in this section, A~~protection order issued by a court of another state~~@ means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. A~~Protection order issued by a court of another state~~@ does not include an order for support or for custody of a child. (ORC 2919.27)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES OR OTHER TOBACCO PRODUCTS.

(a) As used in this section:

- (1) A~~Child~~@ has the same meaning as in Ohio R.C. 2151.011.
- (2) A~~Cigarette~~@ includes clove cigarettes and hand-rolled cigarettes.
- (3) A~~Distribute~~@ means to furnish, give, or provide cigarettes, other tobacco products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, or papers used to roll cigarettes.
- (4) A~~Proof of age~~@ means a driver=s license, a commercial driver=s license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
- (5) A~~Tobacco product~~@ means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.
- (6) A~~Vending machine~~@ has the same meaning as A~~coin machine~~@ in Ohio R.C. 2913.01.

(b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no other person shall do any of the following:

- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any child;
- (2) Give away, sell or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that child.

(c) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine, except in the following locations:

- (1) An area within a factory, business, office, or other place not open to the general public;
- (2) An area to which children are not generally permitted access;
- (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
 - A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:

- (1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
- (2) The person who gave, sold, or distributed cigarettes, other tobacco products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

- (e)
 - (1) Whoever violates subsection (b)(1) or (2) or (c) of this section is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(1) or (2) or (c) of this section, illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.
 - (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(3) of this section, permitting children to use cigarettes or other tobacco products is a misdemeanor of the third degree.

(f) Any cigarettes, other tobacco products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this section and that are used, possessed, purchased, or received by a child in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. 2933.42 and 2933.43.
(ORC 2927.02)

537.161 POSSESSION AND USE BY MINORS OF TOBACCO PRODUCTS PROHIBITED.

(a) No person shall give, sell, transfer or otherwise distribute cigarettes or other tobacco products to any person under the age of eighteen years.

(b) No person under the age of eighteen years shall possess, smoke, or use cigarettes, tobacco products or any substance containing tobacco.

(c) No person under the age of eighteen years shall order, pay for, purchase, share the cost of or attempt to purchase cigarettes or other tobacco products.

(d) No person under the age of eighteen years shall knowingly show or give false information concerning his or her name, age or other identification for the purpose of purchasing or otherwise obtaining cigarettes or other tobacco products in any place in the City where cigarettes or other tobacco products are sold.

(e) No person shall knowingly furnish any false information as to the name, age or other identification of any person under eighteen years of age for the purpose of obtaining, or with the intent to obtain, cigarettes or other tobacco products for a person under eighteen years of age, by purchase or as a gift.

(f) Whoever violates this section is guilty of underage tobacco prohibition, a minor misdemeanor. If the offender previously has been convicted of a violation of this section, they shall be guilty of a misdemeanor of the fourth degree.
(Ord. 1998-36. Passed 6-22-98.)

537.17 CRIMINAL CHILD ENTICEMENT.

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle, as defined in Ohio R.C. 4501.01, whether or not the offender knows the age of the child, if both of the following apply:

- (1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;
- (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor=s lawful duties in that capacity.

(b) It is an affirmative defense to a charge under subsection (a) hereof that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.

(c) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2905.05, 2907.02, 2907.03 or 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate State law.
(ORC 2905.05)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

(a) No person, including a parent, guardian or other custodian of a child, shall do any of the following:

- (1) Aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming an unruly child as defined in Ohio R.C. 2151.022, or a delinquent child as defined in Ohio R.C. 2152.02.
- (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child as defined in Ohio R.C. 2151.022 or a delinquent child as defined in Ohio R.C. 2152.02.
- (3) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, to register a new residence address, and to periodically verify a residence address and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

(b) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense.

(ORC 2919.24)

537.19 BREACH OF CONFIDENCE BY EMPLOYEE.

(a) No employee of another, who in the course and within the scope of his employment receives any confidential matter or information, shall knowingly, without the consent of his employer, furnish or disclose such matter or information to any person not privileged to acquire it.

(b) Whoever violates this section is guilty of breach of confidence by employee, a misdemeanor of the first degree.

537.20 FORTUNETELLING.

(a) No person shall represent himself to be an astrologer, fortuneteller, clairvoyant or palmist in the City.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

537.21 ABUSE OF A CORPSE.

(a) No person, except as authorized by law, shall treat a human corpse in a way that he knows would outrage reasonable family sensibilities.

(b) Whoever violates this section is guilty of abuse of a corpse, a misdemeanor of the second degree. (Ord. 1973-45. Passed 12-17-73.)

537.22 COMPULSORY SCHOOL ATTENDANCE; PARENTAL DUTY IMPOSED.

(a) For the purposes of Section 537.22, the following definition shall apply unless the context clearly indicates or requires a different meaning.

APublic place@ means any street, highway, alley or right of way, to include sidewalks; any park, playground, mall, other place or building open to the public; any cemetery, school yard, body of water or watercourse; any privately or publicly owned place of amusement, entertainment or public accommodation including parking lots and the areas adjacent thereto; and any vacant lot or lawn.

(b) No minor between the ages of six and eighteen years of age shall be in any public place within the City except in attendance at school or at a school-sponsored or authorized program during regularly scheduled school hours for such minor on any school day, unless:

- (1) The minor has written proof from school authorities that he or she is excused from school attendance at that particular time; or
- (2) The minor is accompanied by his or her parent or legal guardian, or a responsible adult selected by the parent or legal guardian to supervise the child; or
- (3) The minor is actively engaged in work pursuant to an age or schooling certificate, or traveling directly to or from the job site.

It shall be an affirmative defense to this subsection that the minor is not required by state law to be in attendance at school.

(c) No parent or legal guardian of a minor between the ages of six and eighteen years of age shall negligently allow or permit a minor to violate subsection (b) hereof.

It shall be an affirmative defense to this section that the parent or legal guardian has initiated the jurisdiction of the Juvenile Court against the minor prior to the time that the minor was found violating subsection (b) hereof.

(d) Any person violating the provisions of Section 537.22 shall, upon a first offense be guilty of a minor misdemeanor. Each day of violation of this section is a separate offense. (Ord. 2000-21. Passed 4-10-00.)

537.23 MINORS SUSPENDED OR EXPELLED FROM SCHOOL TO REMAIN UNDER SUPERVISION; PARENTAL DUTY IMPOSED.

(a) If a minor is suspended or expelled from school, that minor=s parent or legal guardian shall for the duration of the suspension or expulsion:

- (1) Personally supervise the minor or arrange for a responsible adult to supervise the minor at the times that the minor would have been required to be in attendance at school had he or she not been expelled or suspended; and
- (2) Prohibit the minor from being in any public place at the times that the minor would have been required to be in attendance at school had he or she not been suspended or expelled unless:
 - A. The minor is accompanied by his or her parent or legal guardian or a responsible adult selected by the parent or guardian to supervise the child.
 - B. The minor is actively engaged in work pursuant to an age or schooling certificate, or traveling directly to or from the job site.

- (b) The following shall be affirmative defenses to this section:
- (1) The minor is not required by state law to be in attendance at school; or
 - (2) The parent or legal guardian has initiated the jurisdiction of the Juvenile Court against the child prior to the time that he or she violated subsection (a) of this section.

(c) Any person violating the provisions of Section 537.23 shall, upon a first offense be guilty of a minor misdemeanor. Each day of violation of this section is a separate offense. (Ord. 2000-22. Passed 4-24-00.)

537.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 539 Parks and Playgrounds

539.01	Boundaries of Brooklyn City Memorial Park.	539.13	Destroying or defacing official notices.
539.02	Definition of playground.	539.14	Destruction of property; vegetation.
539.03	Closing hours.	539.15	Disfigurement and removal of property; sanitation.
539.04	Traffic and vehicles.	539.16	Group activities.
539.05	Operation of engine driven model airplanes.	539.17	Picnic areas.
539.06	Climbing trees; sitting upon monuments.	539.18	Alcoholic beverages.
539.07	Swings and hammocks.	539.19	Food or beverages in pool area.
539.08	Swimming.	539.20	Amusement for gain; commercial enterprises.
539.09	Playing golf; hardball.	539.21	Sales; permit required; peddling and begging prohibited.
539.10	Sleeping; indecent language; disorderly conduct.		
539.11	Fires.		
539.12	Firearms.		

CROSS REFERENCES

Power to acquire, hold, lease, sell or donate lands for parks - see Ohio R.C. 715.21

Appropriation of property for parks - see Ohio R.C. 719.01(B)

Director of Public Service to manage - see Ohio R.C. 735.02

Parks and recreation - see Ohio R.C. Ch. 755

539.01 BOUNDARIES OF BROOKLYN CITY MEMORIAL PARK.

(a) The Brooklyn City Memorial Park is hereby determined to be that area bounded and described as follows:

- (1) On the east by South Parkside and the west line of properties fronting on South Parkside and South Amber Drive and Ridge Road;
- (2) On the south by the north line of the Board of Education property;
- (3) On the west by the east line of properties fronting on Rodoan Road;
- (4) On the north by Memphis Avenue and the south line of properties fronting on Ridge Road.

(b) The Brooklyn City Memorial Park may hereafter be referred to as the "Park" in this chapter. (Ord. 1970-10. Passed 5-25-70.)

539.02 DEFINITION OF PLAYGROUND.

A playground shall be that area, other than the Park, owned, leased, rented and operated by the City, where the City has established, installed or provided recreational facilities, including, by way of description, but not limitation, swings, slides, water fountains, teeter totters, ball diamonds, wading pools, jungle gyms and sand boxes. A playground may or may not be fenced in. (Ord. 1970-10. Passed 5-25-70.)

539.03 CLOSING HOURS.

(a) Except by special permission of the Recreation Commissioner, no person shall remain in the confines of the Park, the Park area, the Park buildings or any playground between the hours of 11:00 p.m. and 7:30 a.m.
(Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.04 TRAFFIC AND VEHICLES.

(a) No person shall propel or drive, or cause to be driven or propelled, along or over any road or drive in the Park, any vehicle at a greater rate of speed than ten miles per hour.

(b) Except by authority granted by the Recreation Commissioner or the Director of Public Service, no person shall drive or operate a truck, bus, tractor, snowmobile, go-cart, minibike or other contrivance, or a vehicle designed and used for mass transportation of people, or for the transportation of goods and material, over any road or drive in the Park or in any playground.

(c) No person shall operate a vehicle along any roadway or drive in the Park without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, or so as to endanger the life, limb or property of others in the lawful use of such Park drives or roads.

(d) No person shall park or store any motor vehicle, motor car, bicycle, wagon or other vehicle in the Park or in a playground except in places designated for such purpose. Bicycles shall be kept in the racks where provided and locked. No person shall use any portion of the Park for purposes of way, except driveways, roadways, paths, walks and trails established for such purposes. Paths established as bridle paths, footpaths or bicycle paths shall not be used for vehicular traffic. No person shall operate a bicycle over the infield or the outfield of the baseball diamonds. Persons operating bicycles shall use only areas where no damage will result from the wheels and weight passing over the ground.

(e) No person shall drive along any Park road or drive which has been closed and posted with appropriate signs or barricades. Any Park road or drive may be closed during the process of construction, reconstruction or repair, or when, on the basis of an engineering investigation, weather conditions render travel either unsafe or duly destructive of the roads.

(f) No person shall clean, wash, polish or repair any automobile, truck or other vehicle in the Park or in any playground.
(Ord. 1970-10. Passed 5-25-70.)

(g) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree.

539.05 OPERATION OF ENGINE DRIVEN MODEL AIRPLANES.

(a) No person shall operate, or permit to be operated, any engine driven model airplane in the Park or any playground except in areas specifically designated as suitable for such activities by the Recreation Board. (Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.06 CLIMBING TREES; SITTING UPON MONUMENTS.

(a) No person shall climb any tree or walk, stand or sit upon any monument, vase, fountain, railing, fence or coping in the Park or in any playground. (Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.07 SWINGS AND HAMMOCKS.

(a) No person shall hang or swing a swing or hammock in the Park or in any playground. (Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.08 SWIMMING.

(a) No person shall wade, swim or bathe in any of the ponds, fountains, streams or watercourses in the Park or in any playground, except in places provided for bathing. (Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.09 PLAYING GOLF; HARDBALL.

(a) No person shall play golf or use golf balls and clubs in the Park or in any playground, except in areas set aside for that purpose.

(b) No person shall play baseball with a hardball or use a hardball in the Park or in any playground, except at a diamond specifically designated for hardball use. (Ord. 1970-10. Passed 5-25-70.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree.

539.10 SLEEPING; INDECENT LANGUAGE; DISORDERLY CONDUCT.

(a) The following acts are prohibited in the Park or in any playground: sleeping or protracted lounging on the seats, benches or grass; loud, boisterous, threatening, abusive, insulting or indecent language; disorderly conduct or behavior; lewd or lascivious behavior; or any act tending to a breach of the public peace. (Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.11 FIRES.

(a) No person shall start a fire in the Park or in any playground, except small fires for culinary purposes in Park grills or in privately owned grills. All fires shall be put out by the person starting or using the same before leaving the immediate vicinity of the fire. The dumping of hot ashes or fire from portable picnic grills onto the grass or plants is prohibited. (Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.12 FIREARMS.

(a) No person, except police officers or other law enforcement officers, shall carry firearms of any description, or an air rifle, bow and arrow, sling shot or missile throwing device, in the Park or in any playground, or discharge any firearms, fireworks, explosive substances or an air rifle. (Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.13 DESTROYING OR DEFACING OFFICIAL NOTICES.

(a) No person shall injure, deface or destroy any notice of the rules and regulations for the government of the Park or any playground which has been posted or permanently fixed by order or permission of the Recreation Board or the Director of Public Service, nor shall any person injure, deface, remove or destroy any label or other sign from or on the Park or any playground that has been placed there by the Recreation Board or the Director of Public Service. (Ord. 1970-10. passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.14 DESTRUCTION OF PROPERTY; VEGETATION.

(a) No person shall remove, destroy, break, injure, mutilate or deface in any way any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower or any other property in the Park or in any playground or Park area. No person, other than a City employee, shall bring upon the Park or into any playground, or have in his possession while therein, any tree, shrub or plant or part thereof. (Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.15 DISFIGURATION AND REMOVAL OF PROPERTY; SANITATION.

(a) No person in the Park or in any playground shall:

- (1) Disfiguration and removal. Willfully move, mark, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, fireplace, railing, paving, paving material, waterline or other public utility or part or appurtenance thereof, monument, stake, post or other boundary marker, or other structure, equipment, facility or Park or playground property or appurtenance, whether real or personal; or
- (2) Sanitation.
 - A. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to the Park or in or adjacent to any playground or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such water; or
 - B. Have brought in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to the Park or in or contiguous to any playground, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the Park or any playground by the person responsible for its presence and properly disposed of elsewhere.
(Ord. 1970-10. Passed 5-25-70.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.16 GROUP ACTIVITIES.

(a) Whenever any group, association or organization of 25 or more persons desires to use the City of Brooklyn park facilities for a particular purpose and on a date certain, such as picnics, parties, reunions or theatrical, athletic or entertainment performances, a representative of said group, association or organization shall not less than three days before said date first obtain a permit from the Service Director or Recreation Commissioner for such purposes. The Service Director or Recreation Commissioner shall prepare an application form to be used for such situations.

(b) The Service Director or Recreation Commissioner shall grant the application if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if the said group, association or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the City for any liability of any kind or character and to protect City property from damage. The application shall contain fee schedules for the Grande Pavilion, the Old Stone Pavilion and the Southcreek Shelter as set forth in original Ordinance 1998-7. (Ord. 1998-7. Passed 3-9-98.)

539.17 PICNIC AREAS.

- (a) No person in the Park or in any playground shall:
- (1) Picnic or lunch in a place other than those designated for that purpose. City personnel shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.
 - (2) Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, or use such area and facilities for an unreasonable time if the facilities are crowded.
 - (3) Leave a picnic area before any fire, including charcoal or wood chip fires, is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the Park area by the picnicker to be properly disposed of elsewhere.
(Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.18 ALCOHOLIC BEVERAGES.

- (a) No person shall have in his or her possession, custody or control any alcoholic beverage of any kind within the Park or in any playground.
(Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.19 FOOD OR BEVERAGES IN POOL AREA.

- (a) No person shall handle, possess or consume food or beverages inside the pool area.
(Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.20 AMUSEMENT FOR GAIN; COMMERCIAL ENTERPRISES.

- (a) No amusement for gain or for which a charge is made shall be conducted in the Park or in any playground without the consent of the Mayor and the Safety Director.
(Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

539.21 SALES; PERMIT REQUIRED; PEDDLING AND BEGGING PROHIBITED.

- (a) No person shall sell or offer for sale any article, thing, privilege or service in the Park or in any playground without a permit therefor from the Mayor and the Safety Director and no person shall do any begging, hawking, peddling or soliciting therein.
(Ord. 1970-10. Passed 5-25-70.)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

CHAPTER 541 Property Offenses

541.01	Determining property value in arson.	541.10	Fraudulent use of telephone service.
541.02	Arson.	541.11	Placing and removal of posters and signs.
541.03	Criminal damaging or endangering.	541.12	Abandoning shopping carts. (Repealed)
541.04	Criminal mischief.	541.13	Failure to return library books.
541.05	Criminal trespass.	541.14	Gas stations; posting information.
541.051	Aggravated trespass.	541.15	Deposit of snow.
541.06	Destruction of shrubs, trees or crops.	541.16	Cart corrals to be provided.
541.07	Desecration.	541.99	Penalty.
541.08	Ethnic intimidation.		
541.09	Removal of improvements from real property.		

CROSS REFERENCES

See sectional histories for similar State law
 Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
 Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
 Reimbursement for investigation or prosecution costs - see GEN. OFF. 501.99(a)
 Damage to sidewalks - see GEN. OFF. 521.04
 Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.

- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
- (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

- (3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).

(c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section. (ORC 2909.11)

541.02 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person=s consent.

(b) This section does not apply if the violation is done with purpose to defraud or the property involved is a statehouse or a courthouse, school building or other building or structure that is owned or controlled by the State, any political subdivision, or any department, agency or instrumentality of the State or a political subdivision, and that is used for public purposes.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is five hundred dollars (\$500.00) or more, arson is a felony and shall be prosecuted under appropriate State law. (ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person=s consent:

- (1) Knowingly, by any means;
- (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation is an occupied aircraft, criminal damaging or endangering is a felony and shall be prosecuted under appropriate State law. (ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in a violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief is a felony and shall be prosecuted under appropriate State law. (ORC 2909.07)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows he is in violation of any such restriction or is reckless in that regard;

- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
- (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified to do so by the owner or occupant, or the agent or servant of either.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.

(d) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(e) As used in this section, "land or premises" includes any land, building, structure or place belonging to, controlled by or in custody of another, and any separate enclosure or room, or portion thereof.
(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

(a) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him.

(b) Whoever violates this section is guilty of aggravated trespass, a misdemeanor of the first degree. (ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 901.99(A))

541.07 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
- (2) Any public monument;
- (3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;
- (4) A work of art or museum piece;
- (5) Any other object of reverence or sacred devotion.

(b) Whoever violates this section is guilty of desecration, a misdemeanor of the second degree.

(c) As used in this section, Acemetery@ means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains. (ORC 2927.11)

541.08 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 537.05, 537.06, 537.10(a)(3) to (5), 541.03 or 541.04 of the General Offenses Code by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation.
(ORC 2927.12)

541.09 REMOVAL OF IMPROVEMENTS FROM REAL PROPERTY.

(a) No person having an interest in real property, knowing that such real property is mortgaged or the subject of a land contract, shall remove, or cause or permit the removal of any improvement or fixture from such real property without the consent of the mortgagee, vendor under the land contract or other person authorized to give such consent.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 1973-45. Passed 12-17-73.)

541.10 FRAUDULENT USE OF TELEPHONE SERVICE.

(a) No person shall fraudulently obtain or attempt to obtain telephone service by the use of a false, counterfeit or nonexistent credit card number, nor shall any person fraudulently obtain or attempt to obtain telephone service by charging the price or toll for such service to a false or nonexistent telephone number, nor to an existing telephone or credit card number without the authority of the holder thereof, nor to a credit card number or telephone number where such card has been revoked or where such telephone number has been terminated and notice of revocation or termination has been given to the person to whom such card or number has been issued or assigned.

(b) No person, through the use of any fraudulent scheme, device, prearranged code, or by rearranging, making connection with or tampering with any facilities or equipment, or by utilizing telephone service, knowing or having reason to believe that such rearrangement or connection existed at the time of such utilizing or that such tampering occurred, shall avoid or attempt to avoid, or cause another to avoid, the lawful charges, in whole or in part, for any telephone service.

(c) "Notice," as used in this section, includes either notice given in person or notice given in writing to the person to whom the credit card number or telephone number was issued or assigned. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, is prima-facie evidence that such notice was duly received.

(d) The following shall be considered as telephone service within the scope of this section:

- (1) When the telephone call or message involved originates in this State;
- (2) When the telephone call or message involved terminates in this State;
- (3) When the charges for the telephone call or message involved would have been billable, in normal course, by a person, firm or corporation providing telephone service in this State, regardless of the origin or termination of such telephone call or message, but for the fact that:
 - A. The telephone or credit card number used was false, counterfeit, nonexistent, revoked or terminated; or
 - B. An existing telephone or credit card number was used without the authority of the holder thereof.

(e) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree.

541.11 PLACING AND REMOVAL OF POSTERS AND SIGNS.

Subject to the provisions of Chapter 557:

- (a) No person shall post, hang or place within the corporate limits of the City any sign, poster or display card of a temporary nature advertising, announcing or promoting carnivals, meetings, entertainment events, political issues or candidates, sporting events or any person, place or event more than thirty days prior to the date of the same or, if such event or performance is to be presented on several successive days, more than thirty days prior to the first day of such event.
- (b) Any person, group or organization which posts, hangs or places any sign, poster or display card under the provisions of this section shall remove the same within ten days after the date of such event or, if the performance or event is to be presented on several successive days, within ten days from the date of the last presentation. (Ord. 1957-54. Passed 11-25-57.)
- (c) Whoever violates or fails to comply with any of the provisions of this section is guilty of a misdemeanor of the fourth degree.

541.12 ABANDONING SHOPPING CARTS. (REPEALED)

(EDITOR=S NOTE: Former Section 541.12 was repealed by Ordinance 1999-2. See Chapter 543 for current regulations.)

541.13 FAILURE TO RETURN LIBRARY BOOKS.

(a) No person shall purposely or negligently retain or fail to return to any public library any book, magazine, pamphlet, manuscript, picture, clipping or other property belonging to such library, or pay the reasonable value thereof within thirty days from the date of the posting by certified mail of a notice addressed to such person at the last address furnished the public library. Such notice may be given at any time after the date on which such person should have returned the loaned property.

(Ord. 1969-16. Passed 2-10-69.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

541.14 GAS STATIONS; POSTING INFORMATION.

(a) All gasoline service stations shall post in writing so as to be clearly legible, visible and readable from the contiguous street or streets the price per gallon of regular, premium and unleaded gasoline, days and hours of operation, if gas is not available, and any limitation on the sale of gasoline.

(b) Gas station owners or the employee in charge in the case of a gas station operated by a parent oil company shall notify the Chief of Police concerning days and hours of operation, whether gasoline is available, any limitation on the sale of gasoline and the prices of all grades of gasoline. The gas station owner or the employee in charge in the case of a gas station operated by a parent oil company shall notify the Chief of Police of any change in price of any grade of gasoline, days and hours of operation, availability of gasoline or limitation on the sale of gasoline by or on the day that such change is to take effect.

(c) Whoever violates any provision of this section shall be fined not more than one hundred dollars (\$100.00). Each day in which a violation occurs shall be a separate offense. (Ord. 1979-21. Passed 6-25-79.)

541.15 DEPOSIT OF SNOW.

(a) No person removing snow from any driveway or sidewalk within the City shall deposit the same on the pavement or sidewalk of any public street or on any tree lawn in any public street, except the tree lawn immediately in front of the premises from which the snow is removed.

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor. (Ord. 1992-09. Passed 2-10-92.)

541.16 CART CORRALS TO BE PROVIDED.

(a) Effective October 1, 1997, all merchants who provide shopping carts for the convenience to their customers and who permit these carts to leave the business premises shall provide outdoor designated storage or parking areas (cart corrals) capable of accommodating a minimum of fifty percent (50%) of the total number of shopping carts owned or controlled by the merchant.

(b) Whoever violates this section is guilty of a minor misdemeanor. Each day in which a violation occurs shall be a separate offense.
(Ord. 1997-79. Passed 6-23-97.)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 543 Shopping Carts

543.01	Definitions.	543.05	Redemption of shopping carts.
543.02	Identification of shopping carts.	543.06	Sale of carts at public auction.
543.03	Unlawful to remove shopping carts.	543.07	Disposition of carts.
543.04	Removal of carts found upon any public place.	543.08	Disposition of proceeds.
		543.99	Penalty.

CROSS REFERENCES

Cart corrals to be provided - see GEN. OFF. 541.16

543.01 DEFINITIONS.

(a) AShopping carts@ means any hand drawn or rolling vehicle and/or a nonrolling basket or container made of wire, metal or other material, such as are generally provided by merchants for carting or carrying merchandise of any nature from within the building to automobiles.

(b) APublic place@ includes the following: a street, sidewalk, avenue, road, alley, lane, highway and curb lane.

(c) APerson@ means any individual, firm, partnership, corporation or voluntary association of persons.
(Ord. 1999-2. Passed 1-11-99.)

543.02 IDENTIFICATION OF SHOPPING CARTS.

Every person, who by reason of their business establishment and procedure, makes available to the public shopping carts, shall conspicuously identify such shopping carts with an identification clearly indicating the name of the person or establishment and the location of same.
(Ord. 1999-2. Passed 1-11-99.)

543.03 UNLAWFUL TO REMOVE SHOPPING CARTS.

No person other than the owner of any shop, store, grocery or supermarket in the City shall remove any shopping cart from such premises. APremises@ includes parking lots adjacent thereto. (Ord. 1999-2. Passed 1-11-99.)

543.04 REMOVAL OF CARTS FOUND UPON ANY PUBLIC PLACE.

The Department of Service may remove any shopping carts found in a public place, storing the same within the City in a place of safekeeping until it shall be redeemed, sold or otherwise disposed of as hereinafter provided. (Ord. 1999-2. Passed 1-11-99.)

543.05 REDEMPTION OF SHOPPING CARTS.

Whenever the City shall remove any cart bearing identification of ownership, the Department of Service shall mail a notice to the owner at the location shown on such cart. Such notice shall advise that such cart or carts may be redeemed upon payment of twenty-five dollars (\$25.00) for each cart so redeemed and shall set forth the place for redemption of such cart or carts and where possession of the same may be procured. Payment for redemption shall be made to the Department of Finance and a receipt shall be given therefor, which receipt shall entitle such owner to redeem at the place of storage thereon one or more carts, as provided for in the receipt upon surrender of same at the place of storage of such cart or carts. No cart shall be delivered to a person seeking to redeem the same unless proof is submitted, establishing the same to the satisfaction of the City such person=s ownership or right to possession. Any delivery to a person deemed entitled thereto by this City from the proof submitted, shall be an absolute defense of the City against any other person claiming to be entitled thereto. (Ord. 1999-2. Passed 1-11-99.)

543.06 SALE OF CARTS AT PUBLIC AUCTION.

After the mailing of the notice provided in Section 543.05 hereof, or after removal of a cart bearing no identification of ownership, the City shall from time to time sell such carts at public auction. Notice of such public auction shall be given by publication in a newspaper of general circulation within the City at least once, the first date of publication to be not less than ten days prior to the date of public auction and shall set forth the time and place of holding such public auction and shall also advise that such carts will be sold at public auction for not less than twenty-five dollars (\$25.00) each. Any cart or carts may be redeemed by the owner thereof at least two days prior to such public auction upon payment to the City of the sum of twenty-five dollars (\$25.00) for each cart. No cart shall be delivered to a person seeking to redeem the same unless proof is submitted establishing such person=s ownership or right to possession. Any delivery to a person deemed entitled thereto by the City, from the proof submitted, shall be an absolute defense of the City against any other person claiming to be entitled thereto. (Ord. 1999-2. Passed 1-11-99.)

543.07 DISPOSITION OF CARTS.

If such cart or carts are not sold at public auction, the City may similarly offer the same again for public auction, or dismantle or destroy or otherwise dispose of such cart or carts. Any disposition of such cart or carts made pursuant to this chapter shall be without liability on behalf of the City or to any person lawfully entitled thereto or having an interest therein. (Ord. 1999-2. Passed 1-11-99.)

543.08 DISPOSITION OF PROCEEDS.

Upon redemption or sale of a cart, the proceeds thereof shall be deposited in the General Fund of the City.

(Ord. 1999-2. Passed 1-11-99.)

543.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

(Ord. 1999-2. Passed 1-11-99.)

CHAPTER 545 Theft and Fraud

545.01	Definitions.	545.12	Tampering with coin machines.
545.02	Determining property value in theft offense.	545.13	Criminal simulation.
545.03	Property exceptions as felony offense.	545.14	Tampering with records.
545.04	Detention of shoplifters; rights of museums and libraries.	545.15	Securing writings by deception.
545.05	Petty theft.	545.16	Personating an officer.
545.06	Unauthorized use of a vehicle; vehicle trespass.	545.17	Defrauding creditors.
545.07	Insurance fraud.	545.18	Receiving stolen property.
545.08	Unauthorized use of property.	545.19	Possession of criminal tools.
545.09	Passing bad checks.	545.20	Forgery of identification cards.
545.10	Misuse of credit cards.	545.21	Taking the identity of another.
545.11	Making or using slugs.	545.22	Tampering with and theft of utilities.
		545.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Property defined - see GEN. OFF. 501.01(j)
 Cheating - see GEN. OFF. 517.05
 Falsification - see GEN. OFF. 525.02
 Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

- (w) ARented property@ means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) ATelecommunication@ means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) ATelecommunications device@ means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) ATelecommunications service@ means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) ACounterfeit telecommunications device@ means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. ACounterfeit telecommunications device@ includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
- (bb)
 - (1) AInformation service@ means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
 - (2) AInformation service@ does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) AElderly person@ means a person who is sixty-five years of age or older.
- (dd) ADisabled adult@ means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) AFirearm@ and Adangerous ordnance@ have the same meanings as in Ohio R.C. 2923.11.
- (ff) AMotor vehicle@ has the same meaning as in Ohio R.C. 4501.01.
- (gg) ADangerous drug@ has the same meaning as in Ohio R.C. 4729.01.
- (hh) ADrug abuse offense@ has the same meaning as in Ohio R.C. 2925.01.
(ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender=s same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender=s same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services.
- (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

- (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
- (d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license plate, placard or sticker as prescribed by the applicable law of another state or the United States;
- (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (f) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
(ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is five hundred dollars (\$500.00) or more; or
- (2) The victim of the offense is an elderly person or disabled adult, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle.
(ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a minor misdemeanor.

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is five hundred dollars (\$500.00) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:

- (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is five hundred dollars (\$500.00) or more; or
- (2) If the victim of the offense is an elderly person or disabled adult.
(ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

(b) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(c) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:

- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;
- (2) Furnishing such license or card, or another identification document that contains false information;
- (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(d) Whoever violates this section is guilty of passing bad checks, a misdemeanor of the first degree. If the check or other negotiable instrument is for payment of five hundred dollars (\$500.00) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

(a) No person shall do any of the following:

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(b) No person, with purpose to defraud, shall do any of the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
- (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:

- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five hundred dollars (\$500.00) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
- (ORC 2913.21)

545.11 MAKING OR USING SLUGS.

(a) No person shall do any of the following:

- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
- (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

(a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

(b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is five hundred dollars (\$500.00) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law. (ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

(a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is five hundred dollars (\$500.00) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is five hundred dollars (\$500.00) or more; or
- (2) The victim of the offense is an elderly person or disabled adult.
(ORC 2913.43)

545.16 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of the person=s creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person=s property.
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person=s affairs or estate, the existence, amount or location of any of the person=s property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is five hundred dollars (\$500.00) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is five hundred dollars (\$500.00) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
- (ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

(a) No person shall possess or have under the person=s control any substance, device, instrument, or article, with purpose to use it criminally.

(b) Each of the following constitutes prima-facie evidence of criminal purpose:

- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
- (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
- (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).
(ORC 2913.31)

545.21 TAKING THE IDENTITY OF ANOTHER.

(a) As used in this section, Apersonal identifying information@ includes, but is not limited to, the following: the name, address, telephone number, driver=s license, driver=s license number, commercial driver=s license, commercial driver=s license number, state identification card, state identification card number, social security card, social security number, place of employment, employee identification number, mother=s maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password or credit card number of an individual.

(b) No person shall obtain, possess, or use any personal identifying information of another with the intent to fraudulently obtain credit, property, or services or avoid the payment of a debt or any other legal obligation.

(c) No person shall create, obtain, possess, or use the personal identifying information of another with the intent to aid or abet another person in violating subsection (b) hereof.

- (d) (1) If the violation of subsection (b) hereof occurs as part of a course of conduct involving other violations of subsection (b) hereof or violations of, attempts to violate, conspiracies to violate, or complicity in violations of subsection (c) hereof or Ohio R.C. 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13, the court, in determining the degree of the offense pursuant to subsection (e) hereof, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.
- (2) If the violation of subsection (c) hereof occurs as part of a course of conduct involving other violations of subsection (c) hereof, or violations of, attempts to violate, conspiracies to violate, or complicity in violations of subsection (b) hereof or Ohio R.C. 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43 or 2921.13, the court, in determining the degree of the offense pursuant to subsection (e) hereof, may aggregate all credit, property, or services obtained or sought to be obtained by the person aided or abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided or abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(e) Whoever violates this section is guilty of taking the identity of another. Except as otherwise provided in this subsection, taking the identity of another is a misdemeanor of the first degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is five hundred dollars (\$500.00) or more, taking the identity of another is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.49)

545.22 TAMPERING WITH AND THEFT OF UTILITIES.

(a) No person shall knowingly, without the utility's consent, with intent to violate subsection (b) hereof:

- (1) Tamper with a gas, electric, steam or water meter, conduit or attachment of a utility;
- (2) Reconnect a gas, electric, steam or water meter, conduit or attachment of a utility that has been disconnected by the utility.

In a prosecution under subsection (a)(1) hereof, proof that a meter, conduit or attachment of a utility has been tampered with is prima-facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit or attachment, and who is in possession or control of the meter, conduit or attachment at the time the tampering occurred, has caused the tampering with intent to violate subsection (b) hereof.

In a prosecution under subsection (a)(2) hereof, proof that a meter, conduit or attachment disconnected by a utility has been reconnected without the consent of the utility is prima-facie evidence that the person in possession or control of the meter, conduit or attachment at the time of the reconnection has reconnected the meter, conduit or attachment with intent to violate subsection (b) hereof.

As used in this section, "utility" means any electric light company, gas company, natural gas company, pipe-line company, waterworks company or heating or cooling company, as defined in Ohio R.C. 4905.03(A)(4), (5), (6), (7), (8) or (9), its lessees, trustees or receivers, or any similar utility owned or operated by a political subdivision.

As used in this section, to "tamper" means to interfere with, damage or bypass a utility meter, conduit or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on such meter. (ORC 4933.18)

(b) No person shall knowingly consume any gas, electricity, steam or water that has not been correctly registered because a meter, conduit or attachment of a utility has been tampered with, or knowingly use service that has been discontinued by a utility and reconnected without the utility's consent.

(c) Such utility shall notify its customers, on an annual basis, of the consequences of tampering with or bypassing a meter.
(ORC 4933.19)

(d) Whoever violates subsection (a) hereof is guilty of tampering with utility equipment, a misdemeanor of the first degree, provided the cost of the gas, electricity, steam or water stolen, plus the cost of repair or replacement of the meters, conduits or attachments damaged in violation of subsection (a)(1) or (2) hereof is less than five hundred dollars (\$500.00) and provided the offender has not previously been convicted of a violation of subsection (a) hereof. Whoever violates subsection (a) hereof shall make restitution to the utility for the cost of repair or replacement of the meters, conduits or attachments damaged and for the value of the gas, electricity, steam or water consumed.

(e) Whoever violates subsection (b) hereof is guilty of theft of utility service, a misdemeanor of the first degree, provided the value of the gas, electricity, steam or water is less than five hundred dollars (\$500.00) and provided the offender has not previously been convicted of a violation of subsection (b) hereof. Whoever violates subsection (b) hereof shall make restitution to the utility for the value of the gas, electricity, steam or water consumed in violation of that subsection.

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 549

Weapons and Explosives

549.01	Definitions.	549.08	Discharging firearms.
549.02	Carrying concealed weapons.	549.09	Throwing or shooting missiles.
549.03	Using weapons while intoxicated.	549.10	Knife blades exceeding two and one-half inches.
549.04	Improperly handling firearms in a motor vehicle.	549.11	Transportation and storage of explosives.
549.05	Failure to secure dangerous ordnance.	549.12	Replica firearms.
549.06	Unlawful transactions in weapons.	549.99	Penalty.
549.07	Underage purchase of firearm.		

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see
Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

Explosives and blasting - see FIRE PREV. Ch. 1517

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any firearm designed to be fired while being held in one hand.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, peccretol, cyclitol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or silencer;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

- (l) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
- (m) **Explosive** means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. **Explosive** includes all materials that have been classified as Class A, Class B, or Class C explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. **Explosive** does not include **fireworks**, as defined in Ohio R.C. 3743.01, or any explosive that is not subject to regulation under the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
(ORC 2923.11)
- (n) **Replica or facsimile of a firearm** means any device or object made of plastic, wood, metal or any other material which is a replica, facsimile or toy version of, or is otherwise recognizable as, a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher or any other firearm. As used in this section, **Replica or facsimile of a firearm** includes but is not limited to, toy guns, movie props, hobby models (either in kit form or fully assembled), starter pistols, air guns, inoperative firearms or any other device which might reasonably be perceived to be a real firearm. (Ord. 1989-05B. Passed 11-27-89.)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on his or her person or concealed ready to hand, any deadly weapon.

(b) This section does not apply to officers, agents or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance, and acting within the scope of their duties.

(c) It is an affirmative defense to a charge under this section of carrying or having control of a weapon other than dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following apply:

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor=s lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor=s family or upon the actor=s home, such as would justify a prudent person in going armed.
- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor=s own home.
- (4) The weapon was being transported in a motor vehicle for any lawful purpose, and was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements of Section 549.04(c).

(d) Whoever violates this section is guilty of carrying concealed weapons, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R.C. 2923.12 or of any offense of violence, or if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, or if the weapon involved is a firearm and the violation is committed at premises for which a D permit has been issued under Ohio R.C. Chapter 4303, or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons is a felony and shall be prosecuted under appropriate State law. (ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(b) No person shall knowingly transport or have a loaded firearm in a motor vehicle, in such manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(c) No person shall knowingly transport or have a firearm in a motor vehicle, unless it is unloaded, and is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) In plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(d) This section does not apply to officers, agents or employees of this or any other state or the United States, or to law enforcement officers, authorized to carry or have loaded or accessible firearms in motor vehicles, and acting within the scope of their duties.

(e) The affirmative defenses contained in Section 549.02(c)(1) and (2) are affirmative defenses to a charge under subsection (b) or (c) hereof.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) or (b) hereof is a misdemeanor of the first degree. Violation of subsection (c) hereof is a misdemeanor of the fourth degree.

(g) As used in this section, "unloaded" means, with respect to a firearm employing a percussion cap, flintlock or other obsolete ignition system, when the weapon is uncapped, or when the priming charge is removed from the pan.
(ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

- (1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife and/or spring loaded weapon capable of propelling a knife or knifelike projectile, including, but not limited to a ballistic knife (sometimes referred to commonly as a KGB knife) or other similar weapons and/or advanced martial arts weapons including but not limited to shurikan (throwing star), nunchuck, sword, knife, staff, tonfa, kama, and sai and/or other similar weapons.

This paragraph does not apply to the possession and/or use of advanced martial arts weapons on the premises of a recognized martial arts school or during the time such weapons are being transported directly to or from such premises;

- (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) As used in subsection (a)(1) hereof, the following designated martial arts weapons are defined as follows:

- (1) "Nunchuck" means two pieces of hardwood sticks, generally equal in size and weight, held together by a piece of string, leather or chain.
- (2) "Sword" means a weapon with a long blade for cutting or thrusting designed, manufactured or marketed as a martial arts weapon.
- (3) "Knife" means a weapon consisting of a single or double edged short blade for cutting or throwing and designed, manufactured or marketed as a martial arts weapon.
- (4) "Staff" means a hardwood stick the size of which can vary from two to six feet in length which can be used to strike, to block, to jab, to hold and throw an opponent.
- (5) "Tonfa" means a hardwood shaft which measures about 17 inches in length with a handle approximately 4 1/2 inches in length affixed to the shaft.
- (6) "Kama" means an instrument consisting of a handle with a long curved single edged blade affixed at the end of the handle.
- (7) "Sai" means a piece of steel or heavy metal that is approximately 12 inches in length with a pointed or blunted end and two prongs that extend down from the blade to form a handle and a protection for strikes.

(c) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree.

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if the person eighteen years of age or older and under twenty-one years of age is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS.

(a) No person shall discharge or point or aim any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.10 KNIFE BLADES EXCEEDING TWO AND ONE-HALF INCHES.

(a) No person shall have in his possession or under his control a knife having a blade two and one-half inches in length or longer. However, this section shall not apply to any person if it appears that he was at the time engaged in a lawful business calling, employment or occupation, or that the circumstances in which he was placed justified a prudent man in possessing such a weapon for the defense of his person, family or property.
(Ord. 1952-41. Passed 12-22-52.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.11 TRANSPORTATION AND STORAGE OF EXPLOSIVES.

(a) "Explosives," as used in this section, means and includes any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion, that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(b) For the purpose of this section, manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, friction, concussion, percussion or detonator, such as fixed ammunition for small arms, firecrackers and safety fuse matches.

(c) No person shall transport, keep or store explosives or dangerous combustibles and materials upon any street or parcel of real estate within the City.
(Ord. 1952-43. Passed 12-22-52.)

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.

549.12 REPLICA FIREARMS.

(a) No person shall display, market for sale or sell any replica or facsimile of a firearm in the City. The provisions of this subsection shall not apply to any replica or facsimile firearm which, because of its distinct color, exaggerated size, or other design feature, cannot reasonably be perceived to be a real firearm.

(b) Except in self-defense, no person shall draw, exhibit or brandish a replica or facsimile of a firearm or simulate a firearm in a rude, angry or threatening manner, with the intent to frighten, vex, harass or annoy or with the intent to commit an act which is a crime under the law of the City, State or Federal government against any other person.

(c) No person shall draw, exhibit or brandish a replica or facsimile of a firearm or simulate a firearm in the presence of a peace officer, fire fighter, emergency medical technician or paramedic engaged in the performance of his or her duties and the person committing such brandishing knows or has reason to know that such police officer, fire fighter, emergency medical technician or paramedic is engaged in the performance of his or her duties.

(d) As used in this section, Afirearm@ shall have the same meaning as used in Section 549.01(b).

- (e)
- (1) Whoever violates subsection (a) hereof is guilty of unlawful sale of a replica firearm, a misdemeanor of the third degree.
 - (2) Whoever violates subsection (b) hereof is guilty of brandishing a replica firearm, a misdemeanor of the first degree.
 - (3) Whoever violates subsection (c) hereof is guilty of brandishing a replica firearm in the presence of a public safety officer, a misdemeanor of the first degree.
(Ord. 1989-05B. Passed 11-27-89.)

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 551 Assault Weapons

551.01 Definitions.

551.02 Unlawful possession of assault weapons.

551.03 Unlawful possession of large capacity magazines.

CROSS REFERENCES

Unlawful transactions in weapons - see GEN. OFF. 549.06

Weapons transactions - see GEN. OFF. Ch. 552

551.01 DEFINITIONS.

- (a) For the purpose of this chapter Assault weapon@ means any of the following:
- (1) All of the following specified rifles:
 - A. Norinco, Mitchell and Poly Technologies Avtomat Kalashnikovs (all models).
 - B. Action Arms Israeli Military Industries UZI and Galil.
 - C. Beretta AR-70 (SC-70).
 - D. CETME G3.
 - E. Daewoo K-1, K-2, Max 1 and Max 2.
 - F. Fabrique Nationale FN/FAL, FN/LAR, and FNC.
 - G. FAMAS MAS223.
 - H. Heckler & Koch HK-91, H-93, HK-94 and PSG-1.
 - I. MAC 10 and MAC 11.
 - J. SKS with detachable magazine.
 - K. SIG 57 AMT and 500 series.
 - L. Springfield Armory BM59 and SAR-48.
 - M. Sterling MK-6 and SAR.
 - N. Steyr AUG.
 - O. Valmet M62, M71S and M78.
 - (2) All of the following specified shotguns:
 - A. Franchi SPAS 12 and LAW 12.
 - B. Gilbert Equipment Company Stricker 12.

- (3) All of the following specified pistols:
 - A. Action Arms UZI.
 - B. Encom MP-9 and MP-45.
 - C. MAC 10 and MAC 11.
 - D. INTRATEC TEC-9 and TEC-22.
 - E. Mitchell Arms Spectre Auto.
 - F. Sterling MK-7.
- (4) Other models by the same manufacturer with the same action design that have slight modifications or enhancements for firearms listed in subsections (1), (2) and (3) provided the caliber exceeds .22. rimfire.

(b) A Large capacity magazine@ means a box, drum, clip or other container which holds more than twenty rounds of ammunition to be fed continuously into a semi-automatic firearm, except a magazine designed to hold only .22 caliber cartridges.

(c) A Law enforcement distributor or dealer@ means a firearm distributor or dealer authorized to sell firearms and related equipment to law enforcement agencies.
(Ord. 1989-13. Passed 6-26-89.)

551.02 UNLAWFUL POSSESSION OF ASSAULT WEAPONS.

(a) No person shall knowingly sell an assault weapon.

(b) No person shall knowingly possess an assault weapon, unless that weapon is registered pursuant to subsection (c) hereof. It is intended to ban possession of assault weapons, unless lawfully possessed prior to the effective date of this section, in which case such assault weapons must be registered.

(c) Any person who lawfully possesses an assault weapon prior to November 30, 1989 shall register that firearm with the Department of Public Safety, License Section, between December 1, 1989 and December 31, 1989. The registration shall contain a description of the firearm that identifies it uniquely, including serial number, and the name, address, date of birth, and criminal arrest record of the owner, and such other information as may be required by regulation adopted by the Director of Public Safety. The Safety Director shall adopt regulations governing the issuance of a registration for assault weapons, subject to approval of Council, and may refuse to register such weapon if not in accordance with such regulations. The owner of a registered assault weapon shall notify the Safety Director of a change of address within thirty days of same. The Safety Director may charge a ten dollar (\$10.00) registration fee for assault weapons. A registered owner of an assault weapon may sell or transfer possession of an assault weapon to a gun dealer who has been issued a Federal firearms license. A registered owner of an assault weapon shall notify the Safety Director within thirty days of the lawful sale or transfer of an assault weapon, and shall notify the Safety Director within forty-eight hours of the theft or disappearance of a registered assault weapon.

- (d)
 - (1) This section does not apply to law enforcement officers of the United States, this State or City, and members of the armed forces of the United States or this State, if such persons are authorized to possess such assault weapons and are acting within the scope of their duties.
 - (2) This section does not apply if the assault weapon has been rendered totally inoperable or inert and cannot readily be rendered operable or activated, and such is kept as a trophy, souvenir, curio or museum piece.
 - (3) This section does not apply to any law enforcement distributors or dealers as defined by Section 551.01(c) provided that before the sale to a law enforcement agency the distributor receive a bona fide original purchase order signed in ink by an authorized official of the Federal or State government or the Chief of Police of a city or municipal government.

(e) Whoever violates this section is guilty of unlawful possession of assault weapons, a misdemeanor of the first degree.
(Ord. 1989-13. Passed 6-26-89.)

551.03 UNLAWFUL POSSESSION OF LARGE CAPACITY MAGAZINES.

(a) No person shall knowingly possess a large capacity magazine.

- (b)
 - (1) This section does not apply to law enforcement officers of the United States, this State or City, and members of the armed forces of the United States or this State, if such persons are authorized to possess such large capacity magazine and are acting within the scope of their duties.
 - (2) This section does not apply to a large capacity magazine which belongs to a firearm or which is possessed by the owner of a firearm which is registered with Federal authorities under the National Firearm Act (26 U.S.C.A. ' ' 5801-5871), or if the large capacity magazine belongs to or is a part of an assault weapon which has been registered under Section 551.02(c) or been rendered totally inoperable or inert and the firearm cannot readily be rendered operable or activated, and such is kept as a trophy, souvenir, curio or museum piece.

(c) This section does not apply to any law enforcement distributors or dealers as defined by Section 551.01(c) provided that before the sale to a law enforcement agency the distributors receive a bona fide original purchase order signed in ink by an authorized official of the Federal or State government or the Chief of Police of a city or municipal government.

(d) Whoever violates this section is guilty of unlawful weapons transactions, a misdemeanor of the first degree. (Ord. 1989-13. Passed 6-26-89.)

CHAPTER 552

Weapons Transactions

552.01 Firearm purchase permits.

CROSS REFERENCES

Unlawful transactions in weapons - see GEN. OFF. 549.06

Assault weapons - see GEN. OFF. Ch. 551

552.01 FIREARM PURCHASE PERMITS.

(a) No person shall sell a firearm to another person unless a permit has been issued by the Safety Director to the transferee.

(b) No person shall purchase, buy, barter, trade, or take possession of a firearm for consideration unless a permit has been issued to the transferee by the Safety Director.

- (c)
- (1) The Safety Director shall not issue a permit to purchase a firearm under this section or Chapter 549 until at least ten days have elapsed from the date of the application. The Safety Director shall have the power to promulgate rules and regulations, subject to approval of Council, including permit fees, regarding application for, and issuance of, firearm purchase permits.
 - (2) The Safety Director shall provide for two types of permits to purchase a firearm in the rules and regulations promulgated pursuant to this section. Class I Firearms Purchase Permits are permits that entitle the applicant to purchase a firearm for ten days from the date the permit is issued.
 - (3) Class II Firearms Purchase Permits are permits that entitle the applicant to purchase a firearm at any time during the calendar year in which the permit is issued.

- (4) The standards to issue Class I and Class II Firearms Purchase Permits shall be the same except that Class I permits shall be issued to firearms transferees who request that class of permit because only one weapons transaction is contemplated at the time of the application, whereas a Class II permit shall be issued to firearms transferees who request that class of permit because more than one weapons transaction is contemplated during the calendar year in which the application is made. All Class II Firearms Purchase Permits issued during a calendar year shall expire on December 31 in the year in which they are issued. The Safety Director shall provide by rule and regulation for the application and issuance of either Class I or II Firearm Permits through the mail if the applicant is not a resident of Cuyahoga County.

(d) Whoever violates this section is guilty of unlawful weapons transactions, a misdemeanor of the first degree. (Ord. 1989-18. Passed 6-26-89.)

CHAPTER 553 Railroads

553.01	Obstructing streets by railroad companies.	553.03	Duties of locomotive engineer.
553.011	Obstructing streets by abandoning the locomotive.	553.04	Length of railroad trains.
553.02	Climbing upon railroad cars.	553.05	Speed limit.
		553.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Lighting railroads - see Ohio R.C. 723.33 et seq.
 Power to regulate train speed - see Ohio R.C. 723.48
 Vehicular homicide - see GEN. OFF. 537.02
 Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

- (a) (1) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway.
- (2) At the end of each five minute period of obstruction of a public street, road or highway, each railroad company shall cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
- (3) This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.
- (4) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of subsection (a)(1) hereof and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.

- (5) Upon the filing of an affidavit or complaint for violation of this subsection (a)(1) hereof, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.21)

(b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000).

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

(a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.

(b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.211)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000). (ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules of the corporation managing such railroad.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4999.02)

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

(a) No person in charge of a locomotive shall do the following:

- (1) Fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear;
- (2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning not less than 1,320 feet from such crossing and continuing until the locomotive has passed the crossing.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

553.04 LENGTH OF RAILROAD TRAINS.

(a) No railroad train being composed of more than ninety railroad cars, including by way of description but not of limitation, oil tankers, refrigeration cars, coal cars, gondolas, cabooses, engines (whether steam, diesel or electrically operated) or flat cars, shall be caused or permitted to operate over and upon any tracks crossing any roadways within the City. (Ord. 1969-23. Passed 4-14-69.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed for each car in excess of ninety within any one train.

553.05 SPEED LIMIT.

(a) No person shall move or operate a locomotive, car or train of cars within the City at a speed greater than thirty-five miles an hour.

(b) Whoever violates this section shall be fined not more than fifty dollars (\$50.00). Service of the complaint may be upon any railroad company, its engineer, its conductor or a regular ticket or freight agent of the company. (Ord. 1976-26. Passed 6-28-76.)

553.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)